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WEDNESDAY, FEBRUARY 24 1999
1:33 P.M.

1 SENATE RULES COMMITTEE

2 STATE OF CALIFORNIA

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6 HEARING

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10 STATE CAPITOL

11 ROOM 113

12 SACRAMENTO, CALIFORNIA

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15 WEDNESDAY, FEBRUARY 24, 1999

16 1:33 P.M.

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25 Reported by:

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27 Evelyn J. Mizak
28 Shorthand Reporter

APPEARANCESMEMBERS PRESENT

SENATOR JOHN BURTON, Chair

SENATOR JOHN LEWIS, Vice Chair

SENATOR JOE BACA

SENATOR TERESA HUGHES

SENATOR WILLIAM KNIGHT

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

WADE TEASDALE, Consultant to SENATOR LEWIS

FELICE TANENBAUM, Consultant to SENATOR HUGHES

ANDY PUGNO, Consultant to SENATOR KNIGHT

MANNY HERNANDEZ, Consultant to SENATOR BACA

ALSO PRESENT

B. TIMOTHY GAGE, Director of Finance

STEPHEN J. SMITH, Director
Department of Industrial Relations

SENATOR BETTY KARNETTE

MARTIN W. MORGENSTERN, Director
Personnel Administration Department

SENATOR DON PERATA

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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: The first one is the Director of Finance, Tim Gage.

MR. GAGE: Mr. Chairman and Members, I'd be happy to answer any questions you might have.

I'd like to make just a real quick comment first. It's a privilege for me to be asked by the Governor to serve him. I look forward to working with the Legislature. It's really my home. It's where I grew up, and I'm looking forward to putting together a budget that's responsible fiscally, addresses the needs of California, and hopefully comes in on time.

Lastly, I'd just like to make one comment. I've worked with the staff of the Department of Finance for many years. I know many of them well and have had a great deal of respect for them. But it wasn't really until the transition that I had the opportunity to work more closely with some of them, and I have to say that I was really just struck by what a dedicated, responsible, hard-working staff they are. Frankly, it's really a privilege for me to be able to work with them.

I'd be happy to answer any questions.

SENATOR BACA: I have a question.

CHAIRMAN BURTON: Senator Baca.

SENATOR BACA: Thank you very much, Mr. Chair.

Tim, how is the state's fiscal picture shaping up? In other words the state has been going to sufficient revenue for its budget obligation. Where are we, and what is

1 our status? Can you basically let us know.

2 MR. GAGE: Since the budget was released, and you
3 know, of course, that when the budget was released, we did have
4 to acknowledge what we thought was a fairly significant slowing
5 in the state's rate of growth in terms of the economy.

6 It's apparent that more recent economic activity
7 is not quite as grim, but most commentators and forecasters at
8 this point believe that there will be some moderating of
9 economic growth into 1999 and potentially into 2000. We're, of
10 course, looking towards the May Revision, at which point in time
11 we'll update our forecasts of the economy and our estimates of
12 revenues. And we're hopeful that we will have additional
13 resources at that point in time.

14 SENATOR BACA: So the outlook at this point looks
15 positive at this point?

16 MR. GAGE: I'd say that it is more positive than
17 it was when we put the numbers together in November and
18 December.

19 SENATOR BACA: Thank you.

20 CHAIRMAN BURTON: Senator Hughes.

21 SENATOR HUGHES: Could you tell us what do you
22 see in the projections for the Governor's revision?

23 MR. GAGE: At this point we don't have any
24 specifics. To date, revenues through January are up from the
25 budget forecast by about \$100 million. That's mostly in the
26 area of personal income tax, and it's mostly attributable to
27 final payments for the fourth quarter, which come in January
28 15th. And that portends well for the May Revision.

1 But until we actually get the final personal
2 income receipts, personal income tax receipts April 15th, we
3 won't really know what those numbers look like.

4 SENATOR HUGHES: How large a suitcase did the
5 Governor take to bring back the money? Forget that.

6 CHAIRMAN BURTON: Senator Lewis.

7 SENATOR LEWIS: The Governor has pretty much said
8 that his top priorities are going to be increasing of state
9 reserve, public education, public employee pay raises.

10 Just among those three, how would you rank those
11 this terms of priorities?

12 MR. GAGE: I'll use the comment that my Chief
13 Deputy, Betty Yee, offered with the Senate Budget Committee,
14 which was all of the above.

15 The Governor actually has simply stated that
16 those three will have the highest claim on any additional
17 revenues that we get at the time of the May Revision.

18 SENATOR LEWIS: Maybe I'll be luckier with the
19 next question.

20 With an eye towards fiscal prudence in your
21 professional opinion, how large should the state reserve be?
22 And also, what percentage of the General Fund do you think
23 should be capped in terms of debt service for bonds?

24 MR. GAGE: With respect to the size of the
25 reserve, the Governor has indicated his desire to get to a two
26 percent reserve. Whether or not that'll be possible at the time
27 of the May Revision, we don't know at this point because, as I
28 said, he has identified some other competing priorities.

1 And in fact, that two percent reserve, which is
2 about 1.1 or 1.2 billion dollars, was the figure that we
3 actually started with when we put the budget together in
4 November and December. That was the target that was our
5 starting point. And then it was basically when we got to a
6 point where we realized that we weren't going to have sufficient
7 resources to have a reserve at that level that we scaled back
8 from there. But that is his goal.

9 With respect to debt service, the Treasurer and I
10 had some very interesting conversations with the bond rating
11 agencies around that very question. I think it's fair to say
12 that their sense, and my sense as well, is not that there is a
13 particular number per se, but that rather what's really
14 important for the Governor and the Legislature to consider in
15 terms of debt service is, what are the competing demands? What
16 are the things that they would like to fund on an ongoing basis
17 from the budget that compete for dollars that would be used for
18 debt service?

19 It's really a matter of looking at those kinds of
20 trade-offs that I think are really important. So, I think the
21 Legislature has spoken generally on the issue and identified a
22 six percent level. I think it's fair to say that the rating
23 agencies are generally comfortable with that. What they have
24 said is that it depends really on how other facets of the
25 state's fiscal situation are managed, and what the prospects are
26 for the economy.

27 But from my perspective, it's really
28 fundamentally about what kinds of trade-offs, what kind of

1 competing demands we're looking at.

2 SENATOR LEWIS: Lastly, in the last budget year
3 there was an agreement with local governments and the state to
4 provide \$40 million in local flood subvention projects.

5 CHAIRMAN BURTON: In which Orange County did
6 quite well, as I recall.

7 SENATOR LEWIS: And part of the agreement was
8 that there would be three additional years of 44 million, and
9 yet I believe that was stricken from the budget.

10 What's happening there? What are your thoughts?

11 MR. GAGE: Yes, there was basically a four-year
12 agreement that was reached between the prior administration and
13 Legislature last year to provide that funding. And of the
14 things, as you know, the Governor had to make decisions with
15 respect to, in putting this budget together, was to defer or
16 delay payment on some of those kinds of costs.

17 Another example, for instance, is the issue of
18 the \$160 million that's provided for buy-down of developer fees
19 for low and moderate income housing. What we've proposed in the
20 budget is basically to put those payments in the years in which
21 those dollars will actually be spent.

22 The flood control subvention is a similar issue,
23 where in effect the Governor has said, compared to other
24 priorities, we needed to make a decision to defer at this point
25 in time. Obviously, once we get the May Revision, we'll be in a
26 position to look at those various deferrals and make a decision
27 as to whether or not it's possible to make any restorations.

28 SENATOR LEWIS: At least in terms of

1 prioritization, flood control was somewhere behind education,
2 state employee pay raises?

3 MR. GAGE: I think it's fair to say the
4 Governor's view would be that flood control is behind
5 education. As to where it ranks past that, I don't really have
6 any wisdom to offer you at this point.

7 CHAIRMAN BURTON: Any other questions?

8 I wonder if you could identify --

9 [Laughter.]

10 MR. GAGE: I knew I should have cleaned out my
11 office.

12 [Laughter.]

13 CHAIRMAN BURTON: Leave it to Beaver.

14 [Laughter.]

15 CHAIRMAN BURTON: Anyway, as you can see, he was
16 smiling, as you well said, in anticipation of confirmation to
17 this position.

18 I don't know of anyone since I've been around who
19 really is well suited for this as you because of your
20 relationship with the Legislature.

21 MR. GAGE: Thank you.

22 CHAIRMAN BURTON: Working on budget committees.
23 Why don't you introduce your family.

24 MR. GAGE: Yes, I'd like to, in the third row
25 back there is my daughter, Megan, and my wife Mary Gill.

26 CHAIRMAN BURTON: Why don't those of you in
27 support just raise your hands. Those of you in opposition.

28 Moved by Senator Hughes. Call the roll.

1 SECRETARY WEBB: Senator Baca.

2 SENATOR BACA: Aye.

3 SECRETARY WEBB: Baca Aye. Senator Hughes.

4 SENATOR HUGHES: Aye.

5 SECRETARY WEBB: Hughes Aye. Senator Knight.

6 SENATOR KNIGHT: Aye.

7 SECRETARY WEBB: Knight Aye. Senator Lewis.

8 SENATOR LEWIS: Aye.

9 SECRETARY WEBB: Lewis Aye. Senator Burton.

10 CHAIRMAN BURTON: Aye.

11 SECRETARY WEBB: Burton Aye. Five to zero.

12 CHAIRMAN BURTON: Congratulations, Tim.

13 MR. GAGE: Thank you very much, Mr. Chairman and
14 Members.

15 CHAIRMAN BURTON: We're going to go to Stephen
16 Smith, Director of Industrial Relations.

17 MR. SMITH: As my opening statement, I'd just
18 like to say that Tim is a damn good looking fourth grader.

19 Actually, let me, before answering whatever
20 questions you have, let me be very brief this morning and just
21 thank you for your time.

22 With me, what you see is what you get. I've been
23 around, advocating for working men and women for about 20 years
24 mostly in this town.

25 Really, though, my job is to implement the
26 Governor's program. So, let me just outline for you very
27 briefly how I see that program.

28 His first priority he said at the State of the

1 State is to reinstitute overtime after eight hours in the work
2 day. Pretty simple, my job is work with what I assume will be a
3 soon recreated IWC, the Legislature, the experts, and all the
4 various constituency groups to get that done as soon as
5 possible.

6 Secondly, the former administration pursued a
7 number of changes in how to determine the prevailing wage. This
8 administration has no interest in pursuing those changes any
9 longer, and in fact, is quite committed to using the modal rate
10 the traditional way methodology for determining the prevailing
11 wage.

12 Third, Governor Davis is quite committed to
13 enforcing the law. And that enforcement includes the workers'
14 compensation laws, the labor laws, the health and safety laws.
15 We strongly believe that increasing compliance with those laws
16 really involves two things: communication to increase voluntary
17 compliance; and then enforcement if that compliance isn't
18 forthcoming. Those are really the Governor's top three
19 priorities in terms of the Department of Industrial Relations.

20 I think Tim was more than eloquent on what his
21 overall top three priorities are. And I think really what it
22 amounts to is education, education and education.

23 So, that's really his program. My job's to
24 implement it, and I'm more than happy to answer whatever
25 questions you have.

26 CHAIRMAN BURTON: Senator Lewis.

27 SENATOR LEWIS: I think you may have already
28 answered my question. Going back to the Governor's State of the

1 State address, where he said that the Industrial Welfare
2 Commission would restore the 8-hour overtime.

3 Do I take that to mean that it will go back to
4 exactly the way it was before?

5 MR. SMITH: No, I don't think that is the
6 absolute assumption. I think we assume there will be slightly
7 greater flexibility in the new regulation and certainly the IWC.
8 And the Legislature has bills in front of it to be looking at
9 that.

10 Exactly what it will be, I couldn't sit here and
11 tell you, but certainly there is an openness to looking at that
12 and designing it slightly differently.

13 But the bottom line of an eight-hour day and
14 overtime after that, there's a very strong commitment to.

15 SENATOR LEWIS: The last Industrial Welfare
16 Commission had extensive hearings, and the changes they brought
17 about were to try to bring about some increase in flexibility,
18 which you just alluded to.

19 What kind of flexibility are you talking about?
20 Can you give us an idea of some of the things you might be
21 looking at in terms of potential policy differences between
22 going back to exactly the old rule?

23 MR. SMITH: In specific, no. I will just say
24 generally, the new overtime provision instituted was essentially
25 an overtime after forty hours; it was essentially per week.

26 This administration is interested in going back
27 to an eight-hour day, and an overtime being based on a daily
28 overtime.

1 SENATOR LEWIS: So, you have absolutely no
2 concept --

3 MR. SMITH: At this point, I'm really not
4 prepared to go into detail. Frankly, we expect the IWC to hold
5 hearings and take that kind of input and design what will be the
6 new eight-hour day.

7 SENATOR LEWIS: Just so I know, is the reason you
8 can't go into detail because the various options haven't been
9 discussed?

10 CHAIRMAN BURTON: He saw what happened to Mary
11 Nichols.

12 [Laughter.]

13 SENATOR LEWIS: That was my next question.

14 Have you not thought about that various --

15 MR. SMITH: It's some combination of Senator
16 Burton's comment and also, frankly, I don't want to preclude the
17 IWC from doing its job. And that's its job, is to hold hearings
18 and to go through that, and make -- implement specific
19 regulation.

20 SENATOR LEWIS: So, it'll definitely be the IWC
21 and not via the Legislature?

22 MR. SMITH: The Legislature can certainly do it,
23 and there are those advocates who think that, in fact, the
24 Legislature ought to pass the law, and then have the IWC
25 implement the regulations.

26 SENATOR LEWIS: But in terms of timing, do you
27 think the Governor will be acting prior to the Legislature --

28 MR. SMITH: I think the Governor will be acting

1 prior to re-institute the IWC, but in fact, the regulatory
2 process is not, you know, isn't a one or two day process. So,
3 how that timing works relative to each other, it probably could
4 end up being pretty synonymous.

5 SENATOR LEWIS: One last question. What is the
6 change relative to anything dealing with ergonomic regulations
7 and the court cases?

8 MR. SMITH: Currently, the Standards Board passed
9 ergonomic standards based on this Legislature's action. Those
10 standards have been taken to court from both the trucking
11 industry and the AFL-CIO. There's a trial court decision; it is
12 now on appeal.

13 I guess the two primary issues are, it takes two
14 incidents of perceived ergonomic problems to implement, and the
15 exemption for businesses with nine or fewer employees.

16 My attitude is at this point, the courts have to
17 do their duty, and at that point, we will have either a standard
18 to implement, or they'll send it back to the Standards Board for
19 some retooling, I would assume. So, we're a bit in limbo right
20 now until the Appeals Court acts.

21 SENATOR LEWIS: Do you think there's a chance
22 that the new administration might go further in terms of
23 developing tougher standards or regulations?

24 MR. SMITH: I have not discussed that with the
25 Governor. We all should be aware that just the other day, the
26 federal government is now proposing and is starting rule making
27 on their ergonomic standards. Our, of course, law says we have
28 to be at least as strong as theirs. So, depending on what they

1 come out with at the end of their process, which we're probably
2 18 months away from, given that timeline, as a state we will
3 probably have to react in some fashion to that.

4 CHAIRMAN BURTON: I've got a question, then
5 Senator Baca.

6 One of the complaints we hear from workers and
7 actually the insurers, I'm getting to workers' comp, is that it
8 takes too long for the workers to gets their money, it takes too
9 long for the insurers to know what they got to come up with, so
10 I guess what they can hold in reserve.

11 Two suggestions were made to me to speed up the
12 process. One is to get more either judges or referees, or
13 whatever we're calling them today. And the other was to split
14 the functions between, I guess, policy and administration, where
15 I think when Casey had it, he was everything. I don't know if I
16 was right saying policy and administration, but one
17 administration and something else, which I think was policy or
18 whatever.

19 I don't know if you've either had time to think
20 about that, whether or not your budget requests to the Governor
21 would reflect more judges or referees, but it would seem to me
22 if you've got the workers and the insurers saying the same
23 thing, you know, it probably makes sense. And one of the
24 people I talked to, who is one of the big insurers, said that he
25 thought that would be, among a couple other things, but the
26 biggest reform would be really to split the responsibility
27 between administration, policy, and come up with more judges.

28 If that's one of the bigger reforms, it really

1 isn't going to adversely impact rates or anything else. It
2 would seem to be something to look at.

3 I don't know whether you've had a chance to focus
4 in on that at all, but if you could briefly comment.

5 MR. SMITH: First of all, in the area of the
6 judges, we are having a discussion internally about how many
7 judges we need. When we increased judges a little while ago,
8 the backlog did come down. We started to deal with cases more
9 expeditiously. I mean, it's pretty obvious that that's what
10 would happen.

11 We are considering, you know, if we need more
12 judges, how many they are, where they're located, that kind of
13 situation. I think that will be forthcoming relatively soon.

14 On the second issue, the only thing I've done,
15 frankly, I've heard the same thing. It's amazing what kind of a
16 learning curve you go through when you jump into this kind of a
17 job. There are more suggestions that fly at you.

18 One of the things I've asked is that the folks in
19 the workers comp come back to me with a list of five or six
20 things that would be the best thing we could do administratively
21 to speed up the process, or do we need to get beyond that and
22 come back here and look for changes. They haven't gotten back
23 to me yet.

24 CHAIRMAN BURTON: I'll try to get you a memo on
25 it. I think, although I don't know, that some of the stuff I'm
26 talking about, I don't think you need to necessarily come back
27 to us.

28 Senator Baca.

1 SENATOR BACA: As part of a follow-up to that
2 question, for several years now there has been no increase in
3 benefits for injured workers. Do you expect the Department to
4 work with the Legislature in raising the workers' compensation
5 level for injured workers?

6 MR. SMITH: One more time, the Governor doesn't
7 have a position on that; therefore, I don't have a position on
8 that.

9 I think there is a growing consensus in the
10 community that there should be a benefits increase. I think the
11 two most significant questions swirling about that discussion
12 is, what is the size of the increase, and are there other things
13 that ought to be done at the same time. I think both of those
14 questions, based on my phone calls, in full swirl.

15 SENATOR BACA: Thank you, Steve.

16 The second question, for several years I have
17 been concerned about the lack of enforcement of labor standards
18 in the workplace, working conditions, employee protection.

19 Do you have any plans to beef up the area of
20 labor standard enforcement?

21 MR. SMITH: I think it's a two-step process.
22 First of all, I've directed staff, and they are now working on
23 ways to make the system more efficient, using our existing
24 resources to simply get more inspections done, to get a greater
25 presence on the workplace, to implement the law as best we can.

26 Once we've taken that step and figured out what's
27 the maximum we can do with existing resources, we may very well
28 have to come back here and ask for more.

1 That is not something that's been discussed yet
2 in the administration. And, you know, given our tight fiscal
3 resources this year, it's a reality that it probably won't
4 happen in the current year, but it's certainly something worth
5 looking at and trying to evaluate what we would need.

6 SENATOR BACA: Move.

7 CHAIRMAN BURTON: Do you want to introduce your
8 family, then we'll have a show of hands?

9 MR. SMITH: I left my kids in school, but there's
10 my wife, Carol, who thinks this is better because I'm home a
11 little more often these days.

12 CHAIRMAN BURTON: Do you want to say something,
13 Senator Karnette?

14 SENATOR KARNETTE: I just wanted to give my
15 unqualified support, because you can see how open he is. That's
16 what's important. He's an open person. Everybody's going to be
17 able to talk to him. I've known him many years.

18 You have my unqualified support and good luck.

19 CHAIRMAN BURTON: Those here in support, give us
20 a show of hands.

21 You beat Gage.

22 [Laughter.]

23 MR. SMITH: Does that mean I get more money?

24 CHAIRMAN BURTON: If he approves it.

25 [Laughter.]

26 CHAIRMAN BURTON: Anyone want no speak in
27 opposition?

28 Moved by Senator Baca. Call the roll.

1 SECRETARY WEBB: Senator Baca.

2 SENATOR BACA: Aye.

3 SECRETARY WEBB: Baca Aye. Senator Hughes.

4 SENATOR HUGHES: Aye.

5 SECRETARY WEBB: Hughes Aye. Senator Knight.

6 Senator Lewis.

7 SENATOR LEWIS: Aye.

8 SECRETARY WEBB: Lewis Aye. Senator Burton.

9 CHAIRMAN BURTON: Aye.

10 SECRETARY WEBB: Burton Aye. Four to zero.

11 CHAIRMAN BURTON: Congratulations.

12 MR. SMITH: Thank you.

13 CHAIRMAN BURTON: Marty.

14 Senator Perata.

15 SENATOR PERATA: Thank you, Mr. Chairman,
16 Members.

17 I'm here to answer questions on behalf of my
18 client, Mr. Morgenstern. It's a pleasure. I don't believe
19 Marty needs much introduction, so I'll keep it very brief.

20 It's a pleasure. He is a constituent of mine
21 who I actually believe voted for me, and since there aren't all
22 that many, I wanted to protect my interests and his at this
23 meeting.

24 We really have reached back into the past in
25 order to manage the future. I'm just delighted that he has
26 accepted the position, and that he is before you today as a
27 possible confirmee.

28 I also wanted to point out that this is one thing

1 that those of you who wonder, what could an English major do
2 with that degree? And since I have an English degree, I'm very
3 interested in seeing how he succeeds.

4 With no further ado, I'd like to introduce you to
5 Marty Morgenstern.

6 MR. MORGENSTERN: Thank you, Senator.

7 CHAIRMAN BURTON: We've got your full statement
8 which will be made part of the record. You may just briefly
9 comment, then I'm sure there'll be questions.

10 MR. MORGENSTERN: Thank you, Senator.

11 And thank you, Senator. I voted for you twice,
12 for Assembly and Senate.

13 SENATOR PERATA: Bless you. This was well worth
14 the effort.

15 MR. MORGENSTERN: My statement is here. I won't
16 go into it in great detail.

17 I was, as I said, I've been around a while, and
18 was Director of the Governor's Office of Employee Relations, and
19 helped write the legislation that created the Department of
20 Personnel Administration. That came about after the SEERA Act.

21 The main purpose for creating the Department was
22 to give the executive arm the ability to negotiate and make
23 collective bargaining work for state employees and to otherwise
24 administer the personnel system, together with the State
25 Personnel Board that has a constitutional responsibility.
26 That's basically what I'm here to do and prepared to try to do.

27 The Governor has pointed out that state employees
28 have not had a pay increase in quite a while, four years now.

1 Our first order of business is, we're going to try and get that
2 done.

3 In that statement I said I hoped to be bringing
4 to the Legislature by next month some agreements. In fact, we
5 reached two agreements yesterday, so I think we're on our way to
6 getting there. After an initial pay increase is in place, I
7 hope that we can establish a respectful relationship with
8 employees, where we respect them, they have their dignity, and
9 they have decent wages and working conditions, and the
10 collective bargaining process works, and in return, we have an
11 effective, efficient work force that's user-friendly to the
12 public.

13 That's really how I regard my job, make the
14 personnel system work perhaps a little better than it did
15 before, improving it.

16 We're not interested in pursuing the reforms that
17 were on the table in the past. There are some new ideas that
18 will probably be floated. If anything, we will try and work
19 together with the unions, with the Personnel Board, with the
20 Legislature, with the public in improving the public service
21 that's delivered by an already very efficient, hard-working and
22 excellent work force.

23 I have other responsibilities on CalPERS and
24 managing the state's deferred compensation plan. I think I'll
25 prove able to do that. I'm aware of the problems there, and I'm
26 working on them.

27 CHAIRMAN BURTON: What's the status on how many
28 more units are left?

1 MR. MORGENSTERN: Fourteen. We have 21 units.
2 Four were already in. We brought in a couple more.

3 CHAIRMAN BURTON: What's the status of
4 negotiating with those 14?

5 MR. MORGENSTERN: Well, I brought a list
6 somewhere. I have had 22 meetings so far. I have a dozen more
7 scheduled. Yesterday's developments seemed to have spurred
8 things up some, so some people are now asking to come in more
9 quickly. Perhaps they see a format for reaching agreement now.

10 I would hope that most units will be in soon. Of
11 course, collective bargaining, each unit is a legal entity unto
12 itself and entitled to negotiate its own agreement. We have to
13 deal in good faith with each one.

14 So, it's very hard to predict, but I would hope
15 that fairly quickly we'll have a critical mass of unions on
16 board.

17 CHAIRMAN BURTON: One of the things that sort of
18 bugs me, and I think it bugs the other Members, is, we
19 generally -- session ends on the 30th of June, and on the 28th
20 of June, we get a whole bunch of MOUs that nobody has any idea
21 what's in. They don't necessarily go through a legislative
22 process. I guess that's because maybe a lot of negotiations
23 happen concurrently with the budget or something.

24 These, I guess, if somebody was really interested
25 in taking a look at them, we'd have a little more time to
26 understand them.

27 At some point, I'd like you to give some thought
28 as to how maybe the MOUs could get up here so we have a

1 semi-better idea of what's in them. Then we'll commit that
2 we'll pass all the bills before the last hour before deadline.

3 It's human nature to defer, and I know there'll
4 be a different process now, because I know that the feelings
5 between the employees and last administration were not always
6 cordial on either side or trustful on either side.

7 I think at some point, we ought to have -- we, as
8 the Legislature -- should have an understanding of what it is
9 that we are voting for.

10 In fact, you don't even have to comment. That's
11 just something I'd want you to do.

12 Senator Lewis.

13 SENATOR LEWIS: With regard to the agreements
14 that haven't yet been reached with some of the bargaining units,
15 if for some certain number there ends up being an impasse, if
16 that were to lead to any kind of a public employees strike, in
17 your capacity, what could you and what would you do if there is
18 indeed some kind of a major strike?

19 MR. MORGENSTERN: Defer to counsel.

20 [Laughter.]

21 SENATOR PERATA: We're not prepared to answer
22 that.

23 [Laughter.]

24 MR. MORGENSTERN: Well, if there were a strike,
25 I've been through strikes on both sides of the table. We'll
26 continue essential services and operate under the law.

27 SENATOR LEWIS: What powers are vested in you?
28 What can you do?

1 MR. MORGENSTERN: What can I do?

2 SENATOR LEWIS: Theorhetically.

3 MR. MORGENSTERN: Theoretically, we'd continue
4 functioning. We will implement the law. The law is fairly
5 specific. I believe the law is fairly specific. I was a member
6 of the Public Employment Relations Board and wrote the decision
7 that I think still stands on laws.

8 If employees go through the impasse procedure,
9 and they go through the impasse procedure legally, and what they
10 do is legal, then they have a right to withhold services, some
11 of them. Those in health and safety, where health and safety
12 questions are paramount, we have a right to make sure that they
13 come for work. Same thing for people in managerial positions.
14 And we'll do that.

15 We'll maintain health and safety provisions. We
16 won't allow any jeopardy to the public. We'll enforce the laws
17 to see to it that everyone's protected, and at the same time,
18 we'll respect the right of the public employees to exercise
19 their rights under the law.

20 SENATOR LEWIS: What's your position on the
21 question of granting collective bargaining rights for
22 supervisorial employees?

23 MR. MORGENSTERN: That wasn't in the original
24 law, nor is it standard procedure in the private sector. If
25 someone is in fact a true supervisor under the National Labor
26 Relations Act, and most any other law I know, then they're
27 considered essential to the management team. I've never
28 considered going any other way.

1 CHAIRMAN BURTON: Senator Baca, then Senator
2 Knight.

3 SENATOR BACA: Thank you, Mr. Chair.

4 Marty, in previous years, the DPA and the State
5 Personnel Board were reported to be at odds in a number of civil
6 service procedures.

7 Will you be taking steps to bridge the
8 differences between these two agencies, and how will you be
9 doing this?

10 MR. MORGENSTERN: Well, I would hope that we
11 would be able to resolve any differences. Judge Robey just, I
12 hope, resolved some in his recent decision the other day on the
13 case on binding arbitration. We were pleased with his decision.

14 I think the State Personnel Board clearly has a
15 constitutional authority, and we respect that authority. I've
16 met with the Executive of the State Personnel Board. I think we
17 will have a good working relationship; we do so far.

18 The courts have said, as I recall earlier
19 decisions, that public agencies like ours should harmonize what
20 they do, and that's exactly what we both intend to do, harmonize
21 our different authority. We have to exercise the executive
22 authority, represent the Governor, represent the executive
23 branch of government, basically implement the rules and
24 regulations. They have to protect the civil service system as
25 the constitution mandates and see that everything is done
26 kosher. We expect to work with them in that.

27 As far as if you mean the reforms, there have
28 been some new reforms suggested by the Hoover Commission. I

1 think both of us are interested to sitting down with the
2 employee groups and looking at that. The initial reforms, I
3 mean at least the Executive Summary, is hardly stuff you can
4 disagree with: clarify values and goals; pursue the public
5 interest. Yeah, we will pursue the public interest and clarify
6 our vision. The nuts and bolts, I think, we'll be able to get
7 done.

8 SENATOR BACA: Thank you.

9 CHAIRMAN BURTON: Senator Knight.

10 SENATOR KNIGHT: Marty, a follow-up on the strike
11 issue. Do you have any authority, and if so, would you exercise
12 that authority in going to court is to have the workers back to
13 work?

14 MR. MORGENSTERN: As I say, some workers, yes.
15 If the -- I don't remember the terms of art, but basically, if
16 the health or safety of the community is threatened, then we do
17 have the authority to seek a restraining order, I'm sure, under
18 the existing conditions.

19 Short of that situation, I wouldn't anticipate
20 anywhere we would. To tell you frankly, there were a few
21 strikes the last time I was there, and we were able to settle
22 them without restraining orders and without any great damage to
23 the public weal.

24 SENATOR KNIGHT: And then you indicated that you
25 were on both sides of them. Have you been involved in a strike?

26 MR. MORGENSTERN: Yes, sir. I walked the picket
27 line, and I crossed them when I was the management and managed.
28 So, I've done both.

1 SENATOR LEWIS: What is more fun?

2 [Laughter.]

3 MR. MORGENSTERN: I think I'll take the Fifth on
4 that.

5 CHAIRMAN BURTON: He started growing a beard
6 after he crossed the picket line so he could look himself in the
7 face.

8 Senator Hughes.

9 SENATOR HUGHES: I'd like to move his
10 nomination. I'm sure there's nobody here to speak against him.

11 CHAIRMAN BURTON: Do you have anybody here to
12 introduce?

13 MR. MORGENSTERN: None of my ex-wives could make
14 it.

15 [Laughter.]

16 CHAIRMAN BURTON: Could we have a show of hands
17 in support? Anybody to speak in opposition.

18 SENATOR BACA: He said his ex-wives couldn't make
19 it.

20 [Laughter.]

21 CHAIRMAN BURTON: Call the roll.

22 SECRETARY WEBB: Senator Baca.

23 SENATOR BACA: Aye.

24 SECRETARY WEBB: Baca Aye. Senator Hughes.

25 SENATOR HUGHES: Aye.

26 SECRETARY WEBB: Hughes Aye. Senator Knight.

27 SENATOR KNIGHT: Aye.

28 SECRETARY WEBB: Knight Aye. Senator Lewis.

1 SENATOR LEWIS: Aye.

2 SECRETARY WEBB: Lewis Aye. Senator Burton.

3 CHAIRMAN BURTON: Aye.

4 SECRETARY WEBB: Burton Aye. Five to zero.

5 CHAIRMAN BURTON: Congratulations, Marty.

6 MR. MORGENSTERN: Thank you.

7 [Thereupon this portion of the
8 Senate Rules Committee hearing was
9 terminated at approximately 2:13 P.M.]

10 --ooOoo--


CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 25th day of February, 1999.


EVELYN J. MIZAK
Shorthand Reporter

STATEMENT OF MARTIN W. MORGENSTERN
SENATE RULES COMMITTEE CONFIRMATION HEARING
FEBRUARY 24, 1999

In response to Senator Burton's request, I am pleased to provide this statement for the Senate Rules Committee confirmation hearing on my appointment as Director of the Department of Personnel Administration (DPA).

The Director of DPA has three basic responsibilities. They are (1) to represent the Governor in his dealing with State employees, their unions and other organizations; (2) to administer, in cooperation with the State Personnel Board (SPB), the State's personnel system, including compensation, classification, benefits, promotion, recruitment, discipline, retention, training and related matters; and lastly to be an ex officio member of the CalPERS Board of Administration.

My immediate priority is to restore a respectful, functional, collective bargaining relationship with all of the unions representing State employees. Negotiations have begun. I am hopeful that they will lead to agreements being submitted to the Legislature before the end of next month, for some units at least. In the longer term, I hope to build an on-going relationship between the State and the unions representing State workers that is characterized by mutual respect, timely agreements, and a partnership approach to problem solving. While labor and management are never going to agree on everything, neither need we be in a constant state of conflict. I believe we

can avoid the bitterness and mutual animosities that seem to have caused bargaining stalemates in the past.

Any discussion of bargaining leads to questions about salaries. The majority of our employees have not received a raise in more than four years. We want to negotiate fair salary increases for State employees and to do it soon. In the longer term I hope to put together a department team of negotiators, and others, with a new attitude toward employees and their organizations. California should never again go four years without labor agreements in place for most of its workforce. State employees are too vital a resource to put in such jeopardy. There must be good faith collective bargaining conducted with a determination to keep salaries and working conditions fair and competitive. In return the State will receive labor stability, and benefit from the accomplishments of a productive workforce.

In recent years, civil service reform has been both a bargaining and legislative topic. Certainly we agree that improvements should be made in the State's personnel system. I would not, however, characterize the last package of State demands for change or "reform" as improvements. They appear to have been presented in a "take it or leave it" fashion and were a major cause of bargaining impasses in most units. Together with the unions we would like to look in other directions. These may include the new proposals of the Little Hoover Commission. At the very least, these represent a step forward from the last set of proposals management put on the table. Perhaps they will serve to engage the unions, State agencies, SPB, and other interested parties in a

constructive dialogue about building a better personnel system. The Hoover Commission proposals suggested strategies for improvement in a wide range of areas, including recruitment, civil service examining, position classification, salary administration, training, and management development. All of these are areas in which consensus and cooperation can further our ultimate goal, to have an outstanding and properly respected workforce that provides timely, cost-effective, and high-quality service to the public.

As a new member of the CalPERS Board, I am aware of the many issues facing our retirement system, including the second-tier retirement benefit and the need to protect retirees from the long-term effects of inflation. I look forward to working with my fellow Board members to seek needed improvements and efficiencies in the system.

Finally I would add that our highly successful Savings Plus Program, in which State employees have entrusted more than 4 billion of their own dollars for our safekeeping, is moving ahead on schedule to implement the requirements of SB 1416. As required, we will be reporting back to the Legislature by April 15, 1999. We would hope that by this fall or not much later, SPP members will be able to put their money in a wide array of stocks, bonds, and mutual funds.

As you requested, I have kept these comments brief. I want to thank the committee for this prompt opportunity to offer my views on managing DPA. I will be happy to discuss these or other topics and answer any committee questions now or any other time.

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APPEARANCESMEMBERS PRESENT

SENATOR JOHN BURTON, Chair

SENATOR JOHN LEWIS, Vice Chair

SENATOR JOE BACA

SENATOR TERESA HUGHES

SENATOR WILLIAM KNIGHT

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

WADE TEASDALE, Consultant to SENATOR LEWIS

FELICE TANENBAUM, Consultant to SENATOR HUGHES

ANDY PUGNO, Consultant to SENATOR KNIGHT

MANNY HERNANDEZ, Consult to SENATOR BACA

ALSO PRESENT

W. DALLAS JONES, Director
Office of Emergency Services

FRED POSTEL
California Fire Chiefs Association

DAN TERRY, President
California Professional Fire Fighters

DAN CURTIN
California State Council of Carpenters

GRANTLAND L. JOHNSON, Secretary
Health and Human Services Agency

SENATOR DEBORAH ORTIZ

1 STEVEN THOMPSON
California Medical Association

2
3 TED RUHIG, Secretary
California Seniors Coalition

4 TERRY BRENNAND
5 SEIU

6 BETH CAPELL
Health Access

7
8 BILL POWERS
Congress of California Seniors

9 TERRI THOMAS
10 California Association of Public Hospitals and Health Systems

11 MARGARET PENA
12 California State Association of Counties

13 BURNS VICK
Vick and Associates

14 CASEY McKEEVER
15 Western Center on Law & Poverty

16 STEPHEN A. MACOLA
17 California Emergency Foodlink

18 ROBERT PRESLEY, Secretary
Youth and Adult Correctional Agency

19
20 ASSEMBLYMAN ROBERT PACHECO

21 JOHN P. QUIMBY, Lobbyist
San Bernardino County Board of Supervisors

22 JOHN LOVELL
23 California Police Chiefs Association
24 California Peace Officers Association

25 RANDY A. PERRY
PORAC

26 ROY MABRY, State President
27 Association of Black Correctional Officers
28

1 FRANK R. SEARCY, State President
2 Chicano Correctional Officers Association

3 ALAN CLARKE
4 Chief probation Officers

5 JIM VOGTS
6 Los Angeles County Professional Peace Officers

7 JEFF THOMPSON
8 California Correctional Peace Officers Association
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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: The first person appearing today is Grantland Johnson, Governor's nominee for Secretary of Health and Human Services. He's not here yet.

We'll go for Dallas Jones. And without objection, they want permission to take a picture of us.

Go ahead.

MR. JONES: Mr. Chairman and Members of the Committee, I'd like to tell you a little bit about myself, then briefly go into a few issues of my goals for the Office of Emergency Services.

Prior to my appointment in January of Director of the Office of Emergency Services, I was a fire fighter for 32 years and served for 16 years as the President of the Los Angeles County Fire Fighters. I was that organization's chief negotiator on labor contracts, representing over 2400 fire fighters, helicopter pilots, heavy equipment operators, hazardous materials technicians, dispatchers, and fire prevention personnel.

Originally appointed to the State Board of Fire Services by Governor Deukmejian, I served for eight years on the State Board of Fire Services. I was also a member of FEMA's Urban Search and Rescue Advisory Board, and the IESF Hazardous Materials Advisory Board.

Currently, we in OES are working on the freeze disaster assistance to provide timely and effective response to the needs of the communities while emphasizing the role of the

1 local community, including public officials, labor, business,
2 and the other community organizations.

3 We are addressing the concern of terrorism,
4 including anthrax problems, by providing preparation and
5 planning and training for first responders and other agencies.
6 We understand that terrorism could potentially cause wide-spread
7 damages, and we are working to ensure our readiness for a
8 variety of possible problems.

9 In the future, we want to increase our over-all
10 emphasis on disaster planning preparedness and hazard mitigation
11 efforts. Our goal is to strengthen and enhance an increasingly
12 cost effective process which will eventually reduce the economic
13 and physical losses due to disasters. I'm already beginning the
14 process of developing improved relationships with FEMA. Our
15 goal is to work with FEMA to speed up and improve all phases of
16 mitigation, planning, response and recovery efforts.

17 With the development of our new centralized OES
18 offices, on line for groundbreaking in July of this year, which
19 is being built at the old Mather Air Force Base, we believe that
20 we'll be able to continue to improve our internal coordination
21 to improve our over-all delivery of services.

22 That's pretty much my over-all view at this point
23 in time. We've been pretty busy because of the freeze to go
24 into some of the other areas, but I'd be more than happy to
25 answer any questions you may have of me.

26 CHAIRMAN BURTON: Yes, Senator Lewis.

27 SENATOR LEWIS: Thank you.

28 Mr. Jones, welcome to the Committee. Looking at

1 your resume, and you mentioned in your opening statement, you've
2 been involved in a number of labor organizations and a number of
3 labor responsibilities.

4 I was curious, when you have that kind of
5 responsibility, is that a full-time, or does it preclude you
6 from having the ability to be on the line?

7 MR. JONES: Mostly they're part-time, quite
8 frankly. I would go back in the evenings to my post with my
9 duty locations, but during the day it was a full-time CEO
10 position. Local 1014 had over \$6 million a year budget. They
11 had 14 staff personnel, and also administered and self-funded
12 and administered an insurance program, one of the only few in
13 the United States.

14 SENATOR LEWIS: You've been on the line in the
15 last few years?

16 MR. JONES: On the line, yes, sir. In fact, my
17 last tour of duty was December 29th.

18 SENATOR LEWIS: Question about the timing, that
19 President Clinton recently declared a federal disaster with
20 regard to the Central Valley freeze. What in your estimation is
21 the reason that it took a little longer than it seemed it should
22 have taken?

23 MR. JONES: Well, in looking back, and we looked
24 back quite quickly at the freeze of 1990 and 1991. And actually
25 the Presidential Declaration was a little bit quicker than
26 that. That was one of the things we looked at. We also looked
27 at the response from HAG and Small Business Agency. They came
28 in with their disaster declaration quickly.

1 SENATOR LEWIS: You have 15 assistance centers?
2 Do you have 15 assistance centers that have been set up?

3 MR. JONES: Yes, 15 to 17. We're also looking
4 at two alternative locations based on need. Disaster assistance
5 centers, yes.

6 SENATOR LEWIS: How much money do you think
7 ultimately we'll be spending as a result of this?

8 MR. JONES: One of the things that we've done,
9 which is quite novel, is that these disaster assistance centers,
10 unlike some operations where we come in and pick new sites, we
11 are actually utilizing community-based organization sites, so
12 there's only a couple of those that are not from the firm called
13 Proteus, local organizations that provide farmworker assistance.
14 So what we've done is, we've gone in and partnered with them to
15 utilize their sites at no cost to the state. And then we're
16 putting in staff people in from different departments, EDD,
17 Social Services, hopefully FEMA if we get on board with the
18 rental and mortgage assistance program. So, we're looking at a
19 fairly nominal cost to this point.

20 SENATOR LEWIS: So, projecting ahead, do you
21 think that it will continue to be nominal costs, I guess in
22 terms of what the state shells out versus what we might expect
23 in federal reimbursements. What are you projecting?

24 MR. JONES: We're looking at a cost probably less
25 than \$5 million, total cost to the operation. Depending on the
26 level of federal involvement, of course, from this point
27 forward, because we still have some very heavy unmet needs in
28 the areas of rental, mortgage assistance, utility payments, and

1 also the UI portion.

2 SENATOR LEWIS: Just one final question. Has OES
3 done any kind of risk assessment with any kind of potential
4 problems associated with the Y2K problem?

5 MR. JONES: Currently the Governor's Office is
6 utilizing the Teale Data Center to assess the risks of most
7 state agencies. They're also the lead agency for ours.

8 What we've been concentrating on is putting
9 together contingency planning for local government, local county
10 and state agencies, in the event of potential problems as a
11 result of Y2K.

12 SENATOR LEWIS: Just out of curiosity, in your
13 capacity, if you were to envision a worst case scenario as a
14 result of Y2K, what would be the thing that you'd be most
15 worried about right now?

16 MR. JONES: Well, I think there's a real
17 potential for overreaction, quite frankly, because what we are
18 recommending is no different than the normal earthquake
19 preparedness measures that everyone in the state should have on
20 line already. But because of some of the hoopla in the press,
21 and the gloom and doom scenarios, we think there's a potential
22 for people to over react to this problem and create problems in
23 that measure.

24 I'll give you a quick example, would be the
25 storage of gasoline. When we had gasoline problems in the past,
26 people would store it in plastic containers, therefore creating
27 all kinds of peripheral problems. And so, when you get into
28 hoarding money and gasoline, those things, they could create

1 other problems of their own.

2 SENATOR LEWIS: I've been fielding a number of
3 phone calls and letters in my office asking me technical
4 questions about Y2K beyond my capacity, but it's something I'm
5 sure you have to be somewhat concerned with.

6 Any fear at all about the national power grid?

7 MR. JONES: We have been working very closely
8 with the utilities associations. One of the things you always
9 get into the with the business community is, there is a concern
10 for litigation. So, where they're at in the preparation
11 process, we think, hasn't fully been explained to the public,
12 and we're working them to get all that information out as soon
13 as possible. We think that'll be main role of the Teale Data
14 Center and the Governor's activities in that regard.

15 CHAIRMAN BURTON: Senator Baca, then Senator
16 Hughes.

17 SENATOR BACA: Thank you, Mr. Chair.

18 Dallas, you may have responded earlier, and maybe
19 I wasn't paying attention, or maybe I want additional
20 clarification, in reference to the freeze recovery.

21 Could you tell the Committee what OES efforts are
22 to assist farmers, farmworkers, and any others who have suffered
23 losses as a result of the December freeze?

24 MR. JONES: Certainly, be happy to.

25 The first thing is that OES's primary job and
26 role in any disaster is to coordinate local, state and federal
27 activities in support of both response and recovery of the
28 disaster efforts.

1 Very early on after the freeze, it was identified
2 that the primary problems would be worker related rather than
3 grower related. And part of that is due to the high incidence,
4 about 70 percent of the crop was insured. They also indicated
5 very early on that it didn't seem to be a lot damage to the
6 trees or public infrastructure.

7 So that then leads us into the problem with the
8 workers. These are not a migrant workforce. They are a
9 permanent workforce in the area, very hard working people who
10 are very close to a socio-economic disaster at any good given
11 day with full employment. So, we knew right off that the main
12 needs would be exactly where we are concentrating our efforts:
13 food, housing, utility assistance, and unemployment insurance,
14 because most of these people are workers and have been paid
15 unemployment.

16 So that's where we focused most of our efforts is
17 into those areas to get assistance into those areas from the
18 local providers, while we are able to ramp up our federal
19 declarations and our state assistance. So, we've been primarily
20 coordinating those efforts to making sure that we're providing
21 food, food link, and the food distribution centers. So that's
22 where we've mainly concentrated our efforts.

23 SENATOR BACA: Thank you.

24 CHAIRMAN BURTON: Senator Hughes.

25 SENATOR HUGHES: It's been alleged that OES
26 frequently lost the counties' DSR reports and paperwork. Is
27 this true, or are you aware of that? Is that an idle
28 complaint.

1 MR. JONES: I really can't verify any of those
2 statements that you made.

3 SENATOR HUGHES: I didn't make it. I'm saying
4 it's been alleged. This is what I've heard.

5 MR. JONES: I can't verify that any of those have
6 occurred.

7 I am aware of a feeling from many of the rural
8 counties that they feel that they have not gotten equal
9 treatment in the past regimes with OES. I am looking into that.
10 If it's individuals involved, we'll take the appropriate action
11 to make sure that every county in the state gets a fair hearing
12 of their problems and that we work as advocates for their
13 solutions to solve their problems.

14 SENATOR HUGHES: This is where I got it from. On
15 Thursday, February the 11th, there was a meeting and the public
16 works directors repeated many of their earlier complaints,
17 particularly about FEMA, and secondarily about OES, while
18 acknowledging that both had made some progress. But a CSAC
19 lobbyist complained that you hadn't responded to her request to
20 meet to discuss the issues.

21 Are you aware of this, or is this someone who
22 worked for you, that she tried to get an appointment with or
23 didn't get appointment with? Do you know anything about this?

24 CHAIRMAN BURTON: You could look into it and get
25 back to us. That would be quite helpful.

26 MR. JONES: I'll be happy to. I'm not aware of
27 it right now.

28 SENATOR HUGHES: I don't know about this for

1 sure; this is hearsay.

2 MR. JONES: Sure.

3 SENATOR HUGHES: Are you aware that the counties
4 complain about the same thing on two other occasions, so in the
5 '95 and '98 storms, you'll look at those, too, for us?

6 MR. JONES: Yes.

7 SENATOR HUGHES: Thank you.

8 CHAIRMAN BURTON: Witnesses in support? Do you
9 have anyone you want to introduce? Any family?

10 MR. JONES: No, actually my family's still
11 located in Los Angeles. I have two grown sons, by the way, and
12 both of them are first responders that I'm very proud of.

13 MR. POSTEL: Mr. Chairman, Members of the
14 Committee, I'm Fred Postel, Fire Chief of West Sacramento. I'm
15 here representing the California Fire Chiefs Association and the
16 Fire Chiefs and Fire Districts Legislative Committee.

17 I'm here to support Dallas' appointment as
18 Director of the Office of Emergency Services and the support of
19 the California Fire Chiefs Association.

20 CHAIRMAN BURTON: Thank you.

21 MR. TERRY: Thank you, Senator Burton. I'm Dan
22 Terry. I'm the President of the California Professional Fire
23 Fighters. We represent all rank and file fire fighters in the
24 state of California.

25 I, too, am here to supports Dallas' appointment.
26 Let me just say that I have had the personal pleasure to know
27 Dallas for 25 years. He is a man of great integrity, great
28 skill, and tough in the clinches. I think it's a good

1 appointment, and I would appreciate your support.

2 CHAIRMAN BURTON: Thank you.

3 MR. CURTIN: Mr. Chairman, Members, Danny Curtin,
4 California State Council of Carpenters.

5 I've known Dallas Jones for 25 years, and I
6 reiterate everything Dan Terry said. I'm looking forward to
7 know who to call in the case of an emergency.

8 CHAIRMAN BURTON: Moved by Senator Baca. Call
9 the roll.

10 SECRETARY WEBB: Senator Baca.

11 SENATOR BACA: Aye.

12 SECRETARY WEBB: Baca Aye. Senator Hughes.

13 SENATOR HUGHES: Aye.

14 SECRETARY WEBB: Hughes Aye. Senator Knight.

15 SENATOR KNIGHT: Aye.

16 SECRETARY WEBB: Knight Aye. Senator Lewis.

17 SENATOR LEWIS: Aye.

18 SECRETARY WEBB: Lewis Aye. Senator Burton.

19 CHAIRMAN BURTON: Aye.

20 SECRETARY WEBB: Burton Aye. Five to zero.

21 CHAIRMAN BURTON: Thank you. Congratulations.

22 MR. JONES: Thank you very much for the
23 confidence you've placed in me. Thank you.

24 CHAIRMAN BURTON: Senator Ortiz, you want to
25 introduce Grantland.

26 SENATOR ORTIZ: Good afternoon, Mr. Chair,
27 Members. I've been re minded to be brief; I will do so.

28 It's an honor to be able to introduce Secretary

1 Designate Grantland Johnson for the Health and Human Service
2 Agency. For those of you who are not familiar with our local,
3 born and raised Sacramento leader here, Grantland Johnson
4 served on the City Council for two years, which some of us
5 believe is the best training in the world for elected office.
6 He served from '83 to '86 on the Sacramento City Council, then
7 was elevated to the Board of Supervisors from '87 to '93, and in
8 the wisdom of our President was appointed as Region Nine
9 Director the Department of Health and Human Services.

10 I can't think of anyone who is more prepared for
11 this job, and I think will lead the State of California and
12 deliver the vision of our Governor as well as most Californians
13 in understanding the needs of a very complex, very large agency.

14 With that, I would respectfully request your
15 favorable consideration of his appointment, my friend, former
16 Supervisor Grantland Johnson, and hopefully Secretary of the
17 Health and Human Services Agency of California.

18 MR. JOHNSON: Thank you, Senator Ortiz.

19 Senator Burton and Members, thank you very much.
20 Let me first apologize for being a little late this morning.

21 I submitted to you in advance a prepared
22 statement.

23 CHAIRMAN BURTON: It'll be made part of the
24 record.

25 MR. JOHNSON: Let me just say briefly, without
26 reading the statement in total, that first of all, I'm deeply
27 honored to be designated by Governor Davis as the designee for
28 the position of Secretary of Health and Human Services. I

1 believe that in some ways, it represents the culmination of a
2 life-long set of ambitions in terms of public service. I deeply
3 care about the state of California, and deeply care about the
4 constituents who are served by the Agency.

5 Throughout my career, I've attempted to be
6 forthright. I've attempted to work diligently. I've attempted
7 to balance a range competing interests and demands in the
8 interest of forging sound public policy.

9 Under my stewardship, I hope that the Agency
10 would run effectively, be accountable to the taxpayers and
11 electorate of this great state, and that we provide the Governor
12 with sound policy recommendations, and that we work
13 cooperatively with all interested stakeholders, particularly
14 Members of the State Legislature, and within our communities,
15 affected individuals, affected populations, and affected
16 industries and organizations.

17 Thank you very much for this opportunity to
18 appear before you this afternoon.

19 CHAIRMAN BURTON: Thank you.

20 Senator Lewis.

21 SENATOR LEWIS: Mr. Johnson, I understand that
22 one of the new administration's priorities is an expansion of
23 the Healthy Families Program, and that at least one of the
24 proposals that's being kicked around is to expand the
25 eligibility to perhaps as high as 250 percent of the federal
26 poverty level, and maybe even beyond that on the county level.

27 If that's the case, my understanding is that for
28 a family of four, it take would take eligibility up to \$48,000 a

1 year.

2 And then lastly, if that's the case, unless you
3 can dispel me of that, don't you run the risk of private
4 employers dropping insurance coverage, and dumping it off, and
5 creating a new problem?

6 MR. JOHNSON: I think that there are two issues,
7 Senator Lewis, suggested by your question. One is the first
8 issue of potential crowd out, this notion of private employers
9 dropping their employer responsive coverage in order for that to
10 be supplanted by publicly funded coverage.

11 The second has to do with employers facing, I
12 believe, a real reality in many cases of escalating premiums and
13 the inability financially to continue their sponsorship of such
14 coverage for their employees, and by association, their
15 dependents.

16 In the first instance with regard to crowd out, I
17 think there are some things that states have found that could be
18 done to counteract this question of crowd out. For example,
19 simply requiring a significant gap in terms of a person leaving
20 private insurance before they can join a publicly sponsored
21 insurance program, say six months, and also requiring employers
22 not to drop their coverage in order for it to be supplanted by
23 public responsive coverage.

24 Right now, there's some prohibitions against that
25 under the California law that establishes Healthy Families.

26 SENATOR LEWIS: How do you know that that's a
27 reason?

28 MR. JOHNSON: You can basically ask for a

1 declaration, as we do now when you're covered. Have you been
2 covered in the past few months, for example, past three months?
3 Extend it six months, you are more apt to capture whether or not
4 an employer is sort of gaming the system by, en mass, dropping
5 their employees from coverage and encouraging them to enter
6 public coverage.

7 I think also, too, the question has to be
8 weighed. Inherent to that is relative trade-off. To what
9 extent will this phenomena occur? We really don't know. But
10 even to the extent that it does occur, the question becomes on
11 balance with regard to the welfare of children: is that an
12 acceptable trade-off to the extent that it occurs? And again,
13 we don't know to what extent that would occur. That is an
14 imponderable at this point.

15 SENATOR LEWIS: Enrollment so far hasn't met
16 expectations. Now we're talking about massively expanding
17 eligibility.

18 Is it appropriate to, perhaps, first of all try
19 to have it more inclusive for those that are truly in need?
20 Sounds like we might be mixing up our priorities a little bit.

21 MR. JOHNSON: No, I think that what we are
22 talking about is attempting to tackle a number of things at the
23 same time. A number of reasons why we've had low enrollment up
24 to this point simply can be traced to a number of obvious
25 factors. You're probably aware of these as much as I am.
26 They've had to read a very long application, about 28 pages, is
27 not an inducement to enrollment. We're working on reducing the
28 size of the application down to about 4 pages.

1 Secondly, the way in which we reach out to
2 eligible children hasn't been the most effective strategy, in my
3 opinion. We are changing that by broadening our utilization of
4 community-based and faith-based organizations, for example,
5 persons who are familiar with the families and these children,
6 who have the trust and the confidence of these families to
7 encourage them to enroll their children into the program.

8 We're also trying to explain to immigrant
9 families, for example, that children in this county who are here
10 legally are eligible for these services, and enrollment in
11 Healthy Families or Medicaid cannot be used as a basis for
12 so-called public charge allegation on the part of INS.

13 I think that these are very important steps to be
14 taken. Also, out-station eligibility workers to work with
15 health care workers to enroll these children makes the
16 environment much more conducive and much more effective in terms
17 of reaching out.

18 And I think also ultimately, we have to look at
19 Medicaid as a program that, up until 1996, was linked intimately
20 with welfare, in this case Temporary Assistance for Needy
21 Families, formerly Aid to Families with Dependent Children.

22 The federal government saw fit to make a
23 separation or delete the relationship. We should do same thing
24 here in California and move to a view of Medi-Cal as a health
25 care program as opposed to a welfare program, and reduce the
26 stigma attached to Medi-Cal, and look at it as an effort to
27 enroll children, provide them health care services. We are
28 looking at ways of doing that.

1 SENATOR LEWIS: Another issue altogether, one of
2 the very emotional personal issues of adoption. What is going
3 to be your policy regarding adoption relative to alternative
4 life style families?

5 MR. JOHNSON: I think that basically we should
6 look at the fitness of an adult to provide a caring, nurturing
7 environment for children; are they interested and committed to
8 protecting the health and welfare, and seeing to ensuring the
9 development of the child into a healthy, contributing adult, and
10 making sure that that child has the greatest amount of
11 resources, both in terms of material and in terms of emotional
12 support possible.

13 It seems to me that any adult who demonstrates
14 and can meet that litmus test ought to be considered eligible to
15 be a parent.

16 SENATOR LEWIS: Last question. In the Governor's
17 proposed budget, state employees will receive a 2 percent COLA,
18 welfare recipients slightly larger.

19 Is that a correct view of priorities of the new
20 administration?

21 CHAIRMAN BURTON: One of those is General Fund,
22 and the other is non-General Fund.

23 MR. JOHNSON: Thanks, Senator Burton.

24 CHAIRMAN BURTON: Were you asking me or him?

25 [Laughter.]

26 CHAIRMAN BURTON: There seems to be strong
27 support for Jim Brulte's 20 percent employee raise.

28 I'm sorry; I thought he was directing that

1 question to me.

2 Senator Hughes.

3 SENATOR HUGHES: Thank you very much,
4 Mr. President.

5 I'm concerned, like you are, about the number of
6 families that have not enrolled in Healthy Families, and the
7 tremendous number of children out there that are not covered.
8 You cited the reason, which is a real one: they're afraid of a
9 public charge.

10 Have you thought of anything like public service
11 announcements so that you can wipe away some of this fear, and
12 the people will come forth, because they have so many sick
13 children around? Have you thought about that, or is that a
14 possibility?

15 MR. JOHNSON: It is a possibility, and we are
16 launching additional efforts through the public service
17 announcements. Also, there are more grassroots community-based
18 approaches to communicate to families the importance of
19 enrolling their children in low-cost health insurance.

20 SENATOR HUGHES: What about the other agencies of
21 government working together? About two years ago, I had some
22 legislation that required that these various agencies come
23 together that deal with children and families, and exchange
24 information.

25 In your administration, are you going to
26 revitalize that effort so that one department isn't just doing
27 their own thing without other department knowing what they're
28 doing?

1 MR. JOHNSON: If you recall, Senator Hughes,
2 about a year ago, President Clinton announced an initiative in
3 this area in which he requested relevant federal agencies to
4 come up with plans to participate and assist HHS in the
5 enrollment of children in what they called the State Children's
6 Health Insurance Plan, which we call Healthy Families: Head
7 Start Programs, education programs, food stamp program, WIC
8 programs, child care-day care programs, health care clinics,
9 physician offices, any place in which families and children very
10 contact. Any instance where the message can be reinforced and
11 the efforts can be supported and supplemented ought to be
12 utilized.

13 I plan to establish that kind of coordinated
14 effort not only within the Agency, but beyond the Agency.

15 SENATOR HUGHES: Good, good.

16 MR. JOHNSON: Public housing projects, for
17 example, Housing and Community Development should be a player in
18 this effort.

19 SENATOR HUGHES: Do you think that our citizens
20 are really being served by HMOs? What do you think about the
21 quality of the care that they receive out there?

22 MR. JOHNSON: I think that there's a widespread
23 concern amongst consumers who are members of managed care plans
24 that they oftentimes are not being treated fairly. Oftentimes,
25 the decisions are being made that pre-empt their relationship to
26 their physician or their primary care provider. I think there's
27 widespread concern that when there are differences of opinion
28 over covered options, or diagnosis and treatment decisions,

1 that the doctors' opinions are being pre-empted by persons who
2 are unqualified.

3 As you know, my counterpart, Secretary Maria
4 Contreras-Sweet and I have been asked by the Governor in the
5 budget to bring back to him, within a 60-day time period from
6 the date of the State of the State message, a set of
7 recommendations in this area of regulating managed care plans,
8 health maintenance organizations, in which we will suggest to
9 the Governor a number of reforms that can increase and ensure to
10 the public that there's greater accountability of HMOs' managed
11 care plans, that there is more certainty in terms of treatment,
12 and that we do more to ensure the quality of care being provided
13 to our citizens.

14 SENATOR HUGHES: Do you feel that we can or that
15 we ever will reach universal health care coverage here in the
16 state?

17 MR. JOHNSON: I don't think, frankly, by
18 ourselves, solely on our own with the devices, that we can
19 achieve universal coverage. I think we can substantially
20 achieve expanded coverage of the roughly 7 million people who
21 are uninsured. How many remains to be seen.

22 Can we, Senator? It seems to me that until we
23 have a national commitment of resources and policy towards
24 universal coverage, that a state like California, as large and
25 as complex as it is, simply won't be able to achieve anything
26 approximating universal coverage.

27 However, we can do much, much more than we have
28 done up to this point, and we should do much more.

1 SENATOR HUGHES: I want to ask you a question
2 that I had asked you before in private, and I want you to
3 respond to it again in public. And that was about the
4 restrictions that are invoked by federal law, I believe, that
5 grandparents cannot receive the same amount of funds for caring
6 for their grandchild that a foster parent can receive. And this
7 greatly bothers me.

8 And you had indicated some dialogue that you
9 hoped would take place so that we could ease up on those
10 restrictions in some shape, form, or fashion?

11 MR. JOHNSON: There are two responses.

12 One, we currently have a kinship or kin-care
13 demonstration project underway now.

14 Secondly, this coming Friday, we're meeting with
15 representatives from the --

16 SENATOR HUGHES: I wanted to hear him say it in
17 public so that the public can hear what his proposal is.

18 Would you continue, please?

19 MR. JOHNSON: Yes, what I was saying, the first I
20 mentioned was the fact that we have undergoing now a set of
21 pilot projects around the so-called kin-care or kinship care
22 approach to demonstrate that it's something that we should be
23 universally applying.

24 And secondly, we are engaging in discussions with
25 the US Department of Health and Human Services, first this
26 coming Friday, when a team of them are coming out here to
27 discuss a number of other areas of common interest. Next week,
28 as the Governor attends the National Governors Association

1 meeting, he and I will be meeting with Secretary Shalala on
2 Tuesday, I believe. And at that point in time, we will raise
3 this issue, as well as a number of other issues, to see if we
4 can expand the efforts in our kinship care.

5 We happen to believe that if you can place a
6 child with a related family member, a grandparent, uncle, aunt,
7 that it makes a lot of sense.

8 CHAIRMAN BURTON: Is that a regulation or a
9 statutory prohibition?

10 MR. JOHNSON: Statutory, I think, at this point
11 in time. Well, it's not totally clear. I think statutory,
12 because when I was at HHS, we had this problem, not only in
13 California but in New York, in which the request was made.

14 It's not something that's been effectively dealt
15 with. And so, let me amend my comment. I'm not quite sure
16 whether it's regulatory or statutory. That's something we're
17 going to explore, and to see what flexibility and wiggle room we
18 may have under existing schemes.

19 SENATOR HUGHES: Thank you.

20 CHAIRMAN BURTON: Senator Baca.

21 SENATOR BACA: Thank you, Mr. Chair.

22 In four year approximately, 500,000 adults on
23 CalWORKS may be reaching their limit on aid.

24 What plan is the Agency making to minimize the
25 impact of the five-year limits on aid under the CalWORKS
26 program? If you have a plan, are you starting to look at it?

27 MR. JOHNSON: We are. As you know, a lot of
28 folks have declared victory when it comes to welfare reform

1 based upon the drop in caseloads.

2 I'm somewhat suspect and skeptical of a premature
3 rush to judgement in this regard. As your question implies, we
4 have yet to encounter the impacts stemming from time limits,
5 which we will begin to encounter on a large scale basis July 1
6 of this year.

7 Secondly, we're now beginning to get to those
8 parts of the caseload, those individuals, who are difficult to
9 employ for a number of reasons: limited skills, substance and
10 alcohol abuse, learning disabilities. There are a whole host of
11 reasons in combination that can make it difficult for an
12 individual to enter the workforce effectively.

13 We've also not encountered and dealt with on a
14 large scale basis the phenomena of people first entering a job
15 and then being laid off, and then having to go back to a job, as
16 anyone who's attached to the workforce now encounters
17 increasingly given the turning of the economy. That's a
18 phenomena that we all who are attached to the workforce are
19 prepared to deal with. So, the whole notion of resiliency and
20 sticking with the private labor market is something we've never
21 encountered on this scale in terms of persons who leave
22 welfare.

23 So, that means that we have to look at post
24 employment strategies. We have look at strategies that take
25 into account the need to address these multiple dimensions that
26 people are challenged by. I mentioned before learning
27 disabilities, alcohol and substance abuse, and so on.

28 We also very to make sure that our ability to

1 deal with children as their parents are going through training
2 and working all kinds of hours -- weekends, late nights -- is
3 effective.

4 We will be challenged. No one can say that they
5 really have the program strategy because no one has ever done
6 this in this country at this scale. But I'm optimistic that if
7 we focus on trying to do the things that we know stand in the
8 way of individuals trying earn a decent living, and trying to be
9 contributing members of society, that we're providing a chance
10 of not only giving these folks a place, but keeping their place.

11 So, we have to basically look at these challenges
12 in the California fashion and recognize that one-size-fits-all
13 is not the solution, but we have to understand that not only in
14 the public sector, but the community at large has to participate
15 in these efforts, including employers.

16 SENATOR BACA: Thank you.

17 CHAIRMAN BURTON: Witnesses in support.

18 MR. THOMPSON: Mr. Chairman, Senators, my name
19 Steve Thompson. I'm representing the California Medical
20 Association.

21 I've personally known Grantland for over 30
22 years. We have supported him as an organization both when he
23 was Region Nine Director and today. He brings to this office a
24 commitment to public service, a sense of innovation, and
25 somebody who's worked in his community to make it better. He's
26 a wonderful appointment, and you should be proud to give him a
27 yes vote.

28 Thank you.

1 MR. RUHIG: Thank you, Mr. President. My name is
2 Ted Ruhig. I'm almost 82 years old, have be around the block a
3 few times. I'm known as a senior activist. I'm Secretary to
4 California Seniors Coalition, an organization of 18 statewide
5 senior organizations representing more than a million of
6 California's seniors.

7 I have been a media specialist for the AARP and
8 do write our weekly column for the Senior Press.

9 But today I speak for myself and proudly to
10 support the confirmation of Mr. Grantland Johnson as Secretary
11 of Health and Human Services. I've known Grantland Johnson for
12 a quarter of a century, since we were both involved with the
13 Sacramento Concilio.

14 We seniors regard ourselves as particularly
15 fortunate that we'll have a champion heading up such a
16 significant Agency. This will be very good, not only for
17 seniors, but for all the citizens of the state.

18 Thank you, Senator, for allowing me to add my
19 warm endorsement welcoming Grantland Johnson aboard or
20 California ship of state. Thank you.

21 MR. BRENNAND: Mr. Chairman, Members, Terry
22 Brennand on behalf of Service Employees International.

23 I'm very proud to stand up on behalf of Grantland
24 Johnson for this job. Thank you.

25 MS. CAPELL: Beth Capell on behalf of Health
26 Access also in support. And we have had the opportunity to
27 discuss a number of the health issues that have been raised by
28 the Committee Members and look forward to working with the

1 Secretary on this.

2 MR. POWERS: Bill Powers on behalf of the
3 Congress of California Seniors.

4 I can't say more than Ted Ruhig did and urge your
5 support. Thanks.

6 MS. THOMAS: Terri Thomas on behalf of the
7 California Association of Public Hospitals and Health Systems.

8 We worked very closely with Mr. Johnson in his
9 capacity as a federal administrator. We believe him to be a
10 gentleman of the highest capability and integrity, and urge your
11 favorable consideration.

12 MS. PENA: Margaret Pena on behalf of the
13 California State Association of Counties in support of this
14 nomination.

15 We worked very closely with Mr. Johnson over the
16 past six years while he was the Region Nine Director of Health
17 and Human Services. We think he is uniquely qualified for this
18 position because of his federal and local government experience,
19 and we're honored and pleased to support him.

20 MR. McKEEVER: Thank you Mr. Chairman and
21 Members, Casey McKeever with the Western Center on Law and
22 Poverty.

23 We've also known Mr. Johnson for several years
24 and found him to be open, accessible, and compassionate and
25 caring about the interests and needs of low-income people. We
26 look forward to working with the administration on these vital
27 issues, and we urge your support for his nomination. Thank
28 you.

1 MR. MACOLA: Mr. Chair and Members, Stephen
2 Macola on behalf of the California Emergency Food Link.

3 We're very proud of Mr. Johnson, and we ask your
4 support and approval of his appointment.

5 MR. VICK: Mr. Chairman and Members, Burns Vick,
6 a private consultant consulting with groups in the disability,
7 mental health, and aging field; such groups as the Easter Seal
8 Society, the Independent Living Centers, and others.

9 We're all looking forward to working with the new
10 administration and new Secretary, particularly since he's very
11 consumer and family focused. And we appreciate your support.

12 Thank you.

13 CHAIRMAN BURTON: Any witnesses in opposition.

14 Moved by Senator Hughes. Call the roll.

15 SECRETARY WEBB: Senator Baca.

16 SENATOR BACA: Aye.

17 SECRETARY WEBB: Baca Aye. Senator Hughes.

18 SENATOR HUGHES: Aye.

19 SECRETARY WEBB: Hughes Aye. Senator Knight.

20 SENATOR KNIGHT: Aye.

21 SECRETARY WEBB: Knight Aye. Senator Lewis.

22 SENATOR LEWIS: Aye.

23 SECRETARY WEBB: Lewis Aye. Senator Burton.

24 CHAIRMAN BURTON: Aye.

25 SECRETARY WEBB: Burton Aye. Five to zero.

26 CHAIRMAN BURTON: Congratulations.

27 MR. JOHNSON: Thank you very much.

28 I'd like to introduce my wife.

1 CHAIRMAN BURTON: Absolutely.

2 MR. JOHNSON: Shirley Bolton. Thank you.

3 CHAIRMAN BURTON: It would have been a bitter
4 sweet victory.

5 Rod Pacheco is here. I think he wants to
6 introduce you.

7 Go ahead. Give him the bipartisan flavor.

8 ASSEMBLYMAN PACHECO: It's probably going to be
9 rare with me, Senator. I'm going to do my best.

10 If I can, Members of the Committee, if I may
11 introduce and also offer my own support for Senator Presley.
12 Senator Presley represented my area and my hometown, so to
13 speak, for a number of years as an Assemblyman and as a State
14 Senator. He, quite frankly, did a phenomenal job. The only
15 downside of it for me has been that the expectations in my
16 community have been raised to an unmeetable level, at least for
17 the elected officials that have come after him.

18 I have known Senator Presley to be a warm,
19 caring, and honest and decent man. Certainly those things are
20 much more important than any particular issues or philosophies
21 you may hold. So, I come today to support him and support his
22 nomination by the Governor, and certainly urge your own aye
23 votes on behalf of Senator Presley.

24 CHAIRMAN BURTON: Thank you, Mr. Pacheco.

25 ASSEMBLYMAN PACHECO: Thank you.

26 CHAIRMAN BURTON: Bob.

27 MR. PRESLEY: After that, I'd just ask for an aye
28 vote.

[Laughter.]

MR. PRESLEY: I could ask; couldn't I?

CHAIRMAN BURTON: You can ask.

MR. PRESLEY: Mr. Chairman, Members, I circulated to you a statement, I think about a page-and-a-half. It pretty much lays out in very general terms the direction that we're going to be trying to go in the immediate future. I won't repeat that in the interest of time, and just respond to any soft questions you may have.

CHAIRMAN BURTON: You're that old? You got a Bronze Star in Italy?

MR. PRESLEY: I started young. I was in the first wave of Private Ryan.

CHAIRMAN BURTON: At least you're a Sagittarian, but man, I didn't know you were this old.

MR. PRESLEY: Senator Hughes has a question.

[Laughter.]

CHAIRMAN BURTON: Let's go to Senator Hughes first.

SENATOR HUGHES: Thank you very much.

You know, when I talked to you before, we talked about the fact that there's a lot of effort to block whistle-blowers, and there's retaliation that's going on in some departments, blocking people from getting promotions.

Have you had a chance in the short time that you've been there to hear any of these complaints or to look into them?

MR. PRESLEY: Senator, I haven't heard any of the

1 complaints, but I have reviewed the policy. I think the
2 Department has a pretty good policy. It's a matter, I think, of
3 just enforcing it, making sure that it's followed.

4 It's basically viewed as a form of discrimination
5 and will be pursued in that manner, just like sexual harassment
6 would be a form of discrimination and would be pursued in that
7 manner as well.

8 SENATOR HUGHES: So then, a whistle-blower could
9 be prevented from getting a promotion or something like that?
10 It's sort of done like an inside number on a person.

11 MR. PRESLEY: If you follow this policy and it's
12 enforced, there'd be no problem.

13 SENATOR HUGHES: But now according to the law,
14 it's a misdemeanor if you did that.

15 I was thinking about make it a felony if you did
16 that because a lot of people are intimidated on the inside and
17 are afraid to go forth and make legitimate complaints, because
18 they say that's the end of their career; they'll go nowhere.

19 Do you think it would be too stiff to make it a
20 felony, or would making it a felony be a severe kind of warning
21 that they should have so that your employees wouldn't be
22 reluctant to come forth and tell the truth about situations?

23 MR. PRESLEY: You know, I heard a lot of those
24 complaints when I was here and similar complaints. I'm sure
25 that there's something to a lot of it.

26 But having reviewed that policy, and it being a
27 misdemeanor as you indicate, if I might offer a suggestion, it
28 would be to hold it in abeyance for a year and see what we can

1 do with it over the next year in terms of enforcing it.

2 SENATOR HUGHES: All right, I'll put the bill in,
3 and I'll still have time inform get it to the Governor's desk
4 before I leave.

5 Thank you.

6 MR. PRESLEY: A felony, you know, that's pretty
7 heavy. But I'd say, give us a year to work with the present
8 policy.

9 SENATOR HUGHES: Okay, fine. Thank you.

10 SENATOR LEWIS: First of all, congratulations,
11 Bob.

12 MR. PRESLEY: This isn't air pollution, is
13 it?

14 SENATOR LEWIS: I was going to say, I'm so glad
15 you're here on this appointment and nothing dealing with the
16 AQMD.

17 According to the Master Plan, you're anticipating
18 by June of 2003, I think, an additional 42,000 prisoners.

19 MR. PRESLEY Basically, I think the projections
20 are about 2001. We're beginning to get in real trouble.

21 SENATOR LEWIS: What is your thought?

22 MR. PRESLEY: But on that thought, there's a few
23 good things happening right now. One is, the escalation has
24 slowed. It's not growing as fast as had been projected.

25 The figure that I've been given is that we are
26 down about a prison, which is say 2500 to 2700 prisoners from
27 where we should have been given the projections a few years
28 ago.

1 Number of things, I think, affecting that, but
2 the bottom line is, it's good.

3 The big question, of course, is how long that's
4 going to hold. That may or may not hold. Demographics plays a
5 part. Certainly this state continues to grow in population, so
6 I don't think that's going to hold forever. But it fortunately
7 will give us a little settle-down time.

8 SENATOR LEWIS: Given the potential shortage in
9 the years to come, and given incredible costs associated with
10 prison construction, are you open at all on the whole issue of
11 privatization, private industries helping out, or is that
12 something that you would just foreclose.

13 MR. PRESLEY: No, I wouldn't foreclose that. I
14 think there's a place for some of that. You know, they're not
15 going to take over the system, but there's certainly a place for
16 that in a number of the lower categories. Maybe in something
17 with drug treatment; something in parole revocations, returning,
18 some of the lower level short-term people. There's a place for
19 that along with the other.

20 I think at the present time we have about
21 6,000-7,000 in those kinds of facilities, public and private.
22 Publics can do that as well, as you know, community
23 facilities.

24 SENATOR LEWIS: What's been the change at Pelican
25 since the federal Consent Decree?

26 MR. PRESLEY: Well, they have a warden up there,
27 I understand now, that's doing a good job. Supposedly,
28 everything's in good shape. I keep being told that you don't

1 need to worry about Pelican Bay.

2 And that was a problem, as you know, for a long
3 time. So, I think it's leveled out. What all the reasons are,
4 I'm not sure, but it seems to be working better.

5 SENATOR LEWIS: With regard to prison employees,
6 what is your temperature on possible either psychiatric
7 evaluations or mandatory drug testing?

8 MR. PRESLEY: Of entry level you mean?

9 SENATOR LEWIS: Exactly.

10 MR. PRESLEY: I think psychiatric is certainly in
11 order. I think that could be helpful. Good, thorough
12 background investigations are a necessity.

13 Drug testing, I wouldn't be prepared to do a
14 judgement on that at this point, but I think the psychiatric and
15 the background are certainly two excellent tools.

16 SENATOR LEWIS: Thank you.

17 CHAIRMAN BURTON: Just a couple questions,
18 Senator.

19 One, I know that when you were in the Senate, you
20 were very big on education in the prisons. And you mention here
21 that when you were at the Youthful Offender Parole Board, you
22 had the no diploma-no parole deal.

23 I think even B.T., when he was here, was like
24 grading their spelling.

25 In order to enforce that or make that real, it
26 would take a commitment by the state to put some dough in it;
27 right? How did you do that at the Youthful places? How did you
28 fund those things?

1 You're right. They used to put out, and I don't
2 know if they still do, but the Department of Corrections used to
3 have a card like this of all the people in prison, and violent
4 crimes, and educational background. And except for maybe a
5 spousal murder or familial thing, you never found a college
6 graduate doing a violent crime. And as you went down, even
7 school graduates, except maybe assault with a deadly weapon, you
8 know, bar fights. But when you got to below high school is when
9 you saw the really senseless driveby shootings, muggings, rapes,
10 and things of that sort.

11 So, the education is important. Do you remember
12 how much dough you had to put into your Youthful program?

13 MR. PRESLEY: It's fairly new, just this fiscal
14 year. I don't think there's any added this fiscal year.

15 But you're going to have to add some educational
16 instructors, because it's amazing how successful that was.
17 Right away, these wards started wanting to go to school because
18 they know that if you don't get a high school diploma, they
19 can't be recommended for parole. And that's the way it was
20 enforced. The Youth Authority would not recommend that they
21 appear before the Youthful Offender Parole Board unless they had
22 a high school diploma.

23 I think that's going to be a very successful
24 program. It will take some additional resources down the line.

25 Now in terms of Corrections, that's a big area
26 that needs expansion, is in the education system.

27 CHAIRMAN BURTON: My brother taught almost 20
28 years at San Quentin, sometimes in a classroom, sometime

1 one-on-one in the hallway.

2 And have you either given some thought, or
3 figured out whether it worked, to almost have within the prison
4 mentoring type programs where you do have the cons who, maybe
5 they don't even have degrees, but they're pretty intelligent and
6 well read, and whether they get, if there is anything like it
7 any more, good time credits or something? But they get some
8 kind of benefit out of teaching or tutoring the other inmates?

9 MR. PRESLEY: That's an idea that has been around
10 for a while.

11 CHAIRMAN BURTON: Ever been implemented; do you
12 know?

13 MR. PRESLEY: It is on a very limited basis. I
14 think it has a lot of potential.

15 If you get one that's a little more educated, and
16 he can -- reading is a big one. Get someone to teach someone
17 else to read, and then they would get credits, time off credits
18 as an incentive to do that.

19 CHAIRMAN BURTON: I think some of them might
20 even do it, depending, just give them something to do, too.

21 What about, just the last one, on the drug
22 stuff? I remember asking -- I don't know remember who, I don't
23 think it was Gomez, someone else, maybe even before Gomez -- but
24 it was like they said, we don't have the money or something for
25 some of the drug programs. Then they were complaining they
26 didn't even have the space for an AA meeting, which they could
27 almost do in a cell. I mean, if the weather's good, they could
28 do them out in the yard.

1 And I think because of the budgetary problems
2 that it's very important to utilize every possible tool where we
3 can do it on the cheap, as well as try to get the funding.

4 I think I'm very enthused with your appointment
5 to this, because clearly, except for maybe myself and
6 Vasconcellos, I think you had the record of being the toughest
7 on crime in the Capitol.

8 [Laughter.]

9 CHAIRMAN BURTON: But seriously, you understood
10 that there were a lot things that had to be done, unless you're
11 just going to throw people a warehouse. And I think with your
12 reputation in law enforcement, with the type of legislation you
13 carried in the crime area over the years, that when you're able
14 to suggest different approaches in the prisons, and how to try
15 to stop this recidivism, that I think it'll carry great
16 weight.

17 Senator Baca.

18 SENATOR BACA: Thank you very much, Mr. Chair.

19 First of all, I'm glad that you're from the
20 Inland Empire and not just from Pacheco's area, because a lot of
21 us realize the outstanding work that's you done, both in the
22 Inland Empire and the State of California.

23 In relating to the question on drugs, do you have
24 any plans or thoughts in dealing with access for illegal
25 substance? That seems to be a problem that has occurred and
26 occurred over the years.

27 MR. PRESLEY: Yes, there's quite a program that's
28 being put in place to deal with that. I forget what they call

1 it. There's something like x-ray equipment. There's some new
2 equipment that's become available. And that's being implemented
3 and will be implemented further as we move along.

4 It's called Secure One Thousand. It's a
5 computerized image thing. That, I think, will go a long way.

6 There's all kinds of searches and things that
7 take place.

8 Senator Burton was referring to drug treatment.
9 I think if we can get into more drug treatment, as I certainly
10 intend to try to do, that will help in terms of interdiction as
11 well to get people treated.

12 So, with the new equipment and new programs that
13 are in effect, I think you're going to see that improve over the
14 next year or two.

15 SENATOR BACA: Thank you.

16 CHAIRMAN BURTON: One last thing on that. The
17 press reports that have been unsubstantiated, but they've
18 alleged that prison employees bring as many in as do visitors
19 because they're not subject to search or whatever it is.

20 How can you, if without making people work as
21 second-class citizens, either impress upon them or let them know
22 that that's something that isn't going to be tolerated, and that
23 that's a real problem?

24 Again, these are unsubstantiated press reports,
25 but I keep getting letters from constituents all the time, you
26 know, claiming that as opposed to this. Again, I don't know,
27 you can't stop drugs anywhere, so you probably can't stop them
28 in prisons.

1 MR. PRESLEY: I don't think, Senator, that I
2 would put employees in the same category. I think a lot less
3 comes through there, but there is some. A great deal of it
4 comes through visiting, when people come and visit the
5 inmates.

6 One of the ways to do what you say in terms of
7 employees is just to be very tough on them, and let them know
8 that you're going to be very tough on it. And if they do get
9 caught, there is going to be some searching. And if they do get
10 caught, they're going to be fully prosecuted for doing that.
11 That's just a terrible thing for a correctional officer.

12 CHAIRMAN BURTON: How does a visitor smuggle
13 them in? They look at purses; they look at the packages. And I
14 would think also that there would even almost be like a
15 profile. In other words, you know who the visitors are
16 visiting, or something like that. I mean, it would seem that
17 that would be not a cinch, but a fairly easy thing to crack
18 down, unless they want to get into, like, smuggle them in from
19 Marseilles?

20 MR. PRESLEY: That's why I say this new equipment
21 is going to be very -- because it's like an X-ray.

22 And I know what Senator Baca's referring to.
23 It's the cavities of the body that this is brought in, and this
24 will get to that problem. I think this hold tremendous promise
25 for that in that area.

26 CHAIRMAN BURTON: Witnesses in support briefly.

27 MR. QUIMBY: Mr. Chairman and Members of
28 the Senate Rules Committee --

1 CHAIRMAN BURTON: Are you here as an individual
2 or on behalf of San Bernardino County Board of Supervisors?

3 MR. QUIMBY: I have a memo from my Board asking
4 me to come. It didn't say whether we liked him or not. It just
5 said I had to show up.

6 Senator Presley, the San Bernardino County Board
7 of Supervisors is very excited and wonderful about this
8 appointment, in spite of the fact that during the time he was
9 Senator, he stole just about everything from our county. It's
10 all gone. It's over in Riverside now. We still like him. I was
11 told not to invite him to dinner for fear he'd steal the salt
12 shaker off the table.

13 But we think he'll be a fabulous appointment,
14 Mr. Chairman. My Board just wanted to affectionately come and
15 say we think he's a great appointment, and we certainly hope you
16 can all support his tenure.

17 John Quimby, middle initial P, Senior, County of
18 San Bernardino.

19 CHAIRMAN BURTON: JPQ?

20 MR. QUIMBY: My son, then I have a third, but I'm
21 the oldest one. Not as old as him.

22 MR. LOVELL: John Lovell, representing the
23 California Police Chiefs Association, California Peace Officers
24 Association.

25 We've had a long ongoing relationship with
26 Senator Presley, and we enthusiastically support his
27 appointments.

28 MR. PERRY: Mr. Chairman and Members, Randy Perry

1 with the Peace Officers Research Association of California.

2 We fully support the appointment. We've worked
3 with Senator Presley for many years. I think I put two decades.
4 I didn't want to embarrass him and raise his age in Committee,
5 but it's more like four decades, also as a law enforcement
6 officer. We fully support him. Thank you.

7 MR. MABRY: Mr. Chairman Burton and Committee
8 Members, my name is Roy Mabry, Association of Black Correctional
9 Workers, State President.

10 I have a long history with this Senator, my
11 former district Senator.

12 Senator Hughes, you asked a question earlier
13 about the whistle-blowers. Back in the early '80s, we had a
14 case of that down south. Senator Davis, Ayala, and our current
15 Chairman of the Board of YACA, Mr. Presley, conducted some
16 hearings. Some of those people went on to promote after they
17 shared some of the things and some other things. And they're
18 still working within the system. That was the first case that
19 I've ever witnessed of that.

20 And the complaints had been going on for years
21 before he actually intervened and sort of set a different tone
22 of professionalism during that stage that still exists.

23 Also, Mr. Burton, you asked a question about how
24 do drugs get in through visitors? They'll be strapped to babies
25 from two weeks old to up to ten years old, in the shoes, in the
26 mouth. A person will put it into a balloon, tie a string to his
27 teeth and swallow during the exchanging of kissing. Almost
28 anything you can name strapped to the bottom of a shoe. I've

1 actually witnessed and physically had on assist in arresting
2 people for similar circumstances. So, there's thousands of
3 ways.

4 We have employees, which is a very minimal
5 amount, that actually partake in that, but we have people who
6 just overlook the law in every area of professions. Even some
7 former Legislators are at some of our federal institutions that
8 had some problems.

9 CHAIRMAN BURTON: Let's not --.

10 [Laughter.]

11 MR. MABRY: All right. Anyway, I'm in complete
12 support.

13 CHAIRMAN BURTON: Do you want to help him or
14 not?

15 MR. MABRY: Yes. We support this confirmation.

16 CHAIRMAN BURTON: May the record reflect I
17 think they're all finally out. One of them is even selling real
18 estate.

19 MR. MACOLA: Senator, I'm Stephen Macola. I'm
20 here for the California Emergency Food Link.

21 I've known Senator Presley for 30 years. He's a
22 wonderful appointment, and I recommend on behalf of the Food
23 Link his approval without any qualifications whatsoever.

24 MR. SEARCY: Good afternoon, Senator and
25 Committee Members. My name is Frank R. Searcy, President,
26 Chicano Correctional Workers Association.

27 Just for a moment I'd like to deviate from the
28 agenda. And Senator Hughes, after many, many, many years,

1 probably since I was in high school, I took the jeans out of the
2 closet, and I wore them yesterday also.

3 SENATOR HUGHES: Did anyone attempt to rape you?

4 MR. SEARCY: I didn't go out of the house.

5 CHAIRMAN BURTON: Next.

6 [Laughter.]

7 CHAIRMAN BURTON: I don't know what the CCPOA
8 members really think this is all about.

9 MR. SEARCY: Again, this is CCWA, and thank you
10 again, and I'll be very brief.

11 Our Association joins all the positive comments
12 and thoughts and recommendations regarding the recommendations
13 for Senator Hughes, and we join in that. Thank you.

14 CHAIRMAN BURTON: Thank you.

15 MR. CLARKE: Good afternoon, Mr. Chairman and
16 Members. I'm Alan Clarke, and I represent the Chief Probation
17 Officers of California.

18 It's a pleasure personally to be here in support
19 of Senator Presley, and urge you on behalf not only of my client
20 but me personally, his acceptance as Secretary of Youth and
21 Adult Corrections.

22 MR. VOGTS: Good afternoon, Mr. Chairman and
23 Senators. My name is Jim Vogts, representing Los Angeles County
24 Professional Peace Officers Association.

25 We, like some of you, have had the pleasure for a
26 great many years to work with Senator Presley. We don't think
27 there's a better man for the job. We're pleased and proud to
28 support his appointment. Thank you.

1 MR. THOMPSON: Thank you, Mr. Chairman, Members,
2 I'm Jeff Thompson on behalf of the California Correctional Peace
3 Officers Association.

4 Our Association of some 27,000 peace officers is
5 fully behind Senator Presley's nomination to this post as Agency
6 Secretary. Since we've seen the various candidates since the
7 early '80s come forward to assume the post, we can think of no
8 better qualified person to assume the role.

9 Bob Presley brings a wealth of experience, well
10 versed in the policy debate surrounding the Department of
11 Corrections and the Youth Authority. Some of the earliest work
12 that we worked with him personally on had to do with training
13 for the officers, which is still substandard. But now, since
14 1983, when your bill first was --

15 CHAIRMAN BURTON: I remember the speech he gave
16 on that.

17 MR. THOMPSON: Now he's in position to finally
18 get this thing implemented.

19 CHAIRMAN BURTON: Witnesses in opposition?

20 Moved by Senator Baca. Call the roll.

21 SECRETARY WEBB: Senator Baca.

22 SENATOR BACA: Aye.

23 SECRETARY WEBB: Baca Aye. Senator Hughes.

24 SENATOR HUGHES: Aye.

25 SECRETARY WEBB: Hughes Aye. Senator Knight.

26 SENATOR KNIGHT: Aye.

27 SECRETARY WEBB: Knight Aye. Senator Lewis.

28 SENATOR LEWIS: Aye.

1 SECRETARY WEBB: Lewis Aye. Senator Burton.

2 CHAIRMAN BURTON: Aye.

3 SECRETARY WEBB: Burton Aye. Five to zero.

4 CHAIRMAN BURTON: Congratulations, Bob.

5 MR. PRESLEY: Mr. Chairman and Members, thank you
6 very much.

7 [Thereupon this portion of the
8 Senate Rules Committee hearing was
9 terminated at approximately 2:43 P.M.]

10 --ooOoo--
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CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of February, 1999.


EVELYN J. MIZAK
Shorthand Reporter

**Statement by Grantland
Johnson to the California State
Senate Rules Committee**

Wednesday, February 17, 1999

Senator Burton and Members thank you for the opportunity to discuss my short and long term goals for the Health and Human Services Agency over the next four years.

Good health lies at the heart of the state's well-being. Health and productive individuals, families, and communities are the very foundation of the state's security and prosperity. A healthy workforce is more productive; a healthy student body is ready to learn; and a healthy people is able to build a better society. In this regard, I view health as **"a state of well-being and the capability to function in the face of changing circumstances."** Thus, health is a positive concept that emphasizes social and personal resources as well as physical capabilities. This view of health also underscores the important contributions to health that are made outside the formal medical care and public health systems. Individual behavior, education, equality of opportunity, social and physical surroundings, the economy, and access to health care are all elements crucial to health, and therefore offer opportunities to promote good health.

The California Health and Human Services Agency will face a myriad of challenges over the next four years and beyond. However, few challenges facing the State of California compare to the essential task of reforming our health care system to ensure that Californians have accessible, quality health care. The number of uninsured non-elderly Californians has increased to more than 7 million and is growing at the rate of 50,000 per month. The uninsured are predominantly low- and moderate-income working families and individuals who do not qualify for government sponsored health insurance, who work for employers who do not offer coverage, or who can not afford the employee share of premiums. The Agency has been tasked by Governor Davis to develop strategies to protect and improve the health of California residents. Our first priority is to identify strategies to extend coverage to additional children.

In addition, there is a crisis of confidence among many Californians insured by managed care plans. Governor Davis has tasked Secretary Of Business, Transformation and Housing and Health and Human Services Agency to prepare options for more effective regulation of the managed care industry.

In a California Health and Human Services Agency manages an array of programs that aim to ameliorate disparities in health status and access to health services and increase opportunities for individuals to work and lead productive lives. Many of these programs support basic and applied science, development of knowledge and its application, public health, and child and adolescent development; foster economic self-sufficiency and help working families; and finance health and social services. In all of these, the Agency should seek to close the gaps in health status and improve economic opportunities.

The California Health and Human Services Agency's ongoing management of its programs will be guided by certain core values:

- 0 To deliver results that are satisfactory and meaningful both to the people and communities that are directly served by the Agency's programs, and to the California people who pay for these programs.
- 0 To be an accountable steward of the Agency's programs and enhance the efficiency and quality of the services provided to its customers.
- 0 To protect against discrimination in the provision of health and human services.
- 0 To focus consistently on the prevention of health and social problems.
- 0 To create new forms of collaboration in regulation, research, service delivery, and management.
- 0 To maintain a work environment that encourages captivity, diversity, innovation, teamwork, and highest ethical standards.

The Agency will measure its success against the yardstick of steady, broad-based improvements in the physical and mental health and economic well-being of individuals, families, and communities throughout the state. In order to achieve improvements in the state's health and strengthen the social and economic fabric, the Agency will form partnerships of many kinds— with local and tribal governments, academic institutions, business groups, nonprofit and volunteer organizations, and faith-based organizations.

Thank you for the opportunity to share this brief overview.

365-R

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SENATOR JOHN LEWIS, Vice Chair

SENATOR JOE BACA

SENATOR TERESA HUGHES

SENATOR WILLIAM KNIGHT

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NETTIE SABELHAUS, Consultant on Governor's Appointments

WADE TEASDALE, Consultant to SENATOR LEWIS

FELICE TANENBAUM, Consultant to SENATOR HUGHES

ANDY PUGNO, Consultant to SENATOR KNIGHT

ALSO PRESENT

DIANA K. BUTLER, Warden
California State Prison, Chuckawalla

ROY MABRY, State President
Association of Black Correctional Workers

FRANK R. SEARCY, President
Chicano Correctional Workers Association

JOHN E. FLAHARTY, Chapter President
Chuckawalla State Prison Chapter
California Correctional Peace Officers Association

BARBARA CAYENNE BIRD, President
UNION

THOMAS L. CAREY, Warden
California Correctional Institution, Tehachapi

1 MIKE JIMENEZ, Executive Vice President
2 California Correctional Peace Officers Association

3 YUSUF ISLAM, Muslim Chaplin
4 California Correctional Institution, Tehachapi

5 JOHN H. E. ROMBOUTS, Mayor
6 City of Tehachapi

7 LAWRENCE F. SMALL, Warden
8 California State Prison, Calipatria

9 LANCE CORCORAN, Vice President
10 California Correctional Peace Officers Association

11 JOHN S. MITCHELL
12 Calipatria State Prison Employees Association

13 JESSE BOYAR
14 UNION
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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: We have today three gubernatorial appointees. The first gubernatorial appointee is Diana Butler, Warden, Cal State Chuckawalla.

MS. BUTLER: Senator Burton, Senate Rules Committee, people present, good morning. Thank you for the opportunity to come before you as the Warden appointee of Chuckawalla Valley State Prison and present my qualifications.

My professional experience includes serving the Department of Corrections for over 20 years, working in both the custody area and ancillary positions. I've worked at five different institutions, covering all levels of inmate custody, from camp inmates to those housed in the Security Housing Units.

I was also assigned as the Chief of Classification Services in Central Office, a major area in Headquarters, where I interacted with all the institutions, different departments, the Board of Prison Terms, and outside interests.

My formal schooling includes a Bachelor's of Arts Degree from the University of Michigan, and a Master's of Education from the University of Nevada in Reno. My focus includes maintaining the public safety in an efficient manner, making Chuckawalla Valley State Prison a meaningful and safe workplace for employees, a beneficial and safe place for inmates to serve their sentences, and a valuable neighbor serving the community.

I wish to acknowledge my fine staff at

1 Chuckawalla Valley State Prison who just recently rededicated
2 the prison, celebrating ten years of excellence; our community
3 neighbors who are partners in many useful projects; my
4 supportive supervisors and friends; and especially my wonderful
5 family for all their assistance.

6 Thank you.

7 CHAIRMAN BURTON: What kinds of programs, if
8 any, do you have at that prison that would deal with the
9 problems of recidivism, which California seems to have the
10 highest rate in the nation?

11 MS. BUTLER: We have several programs dealing
12 with recidivism. We have the education programs which cover the
13 literacy programs. We focus in on the inmates who are under 21
14 and give them a special -- we have a special program focusing in
15 on them. We have a special program focusing in the education
16 area for inmates that are under the age of 25, and we have the
17 literacy program, besides the adult basic education programs,
18 which covers basically nonreading through the twelfth grade.

19 We also have English as a second language to
20 assist these that need help in that area.

21 We have several voc. programs to give the inmates
22 a trade, and we have four or five on each facility, and we have
23 four facilities.

24 CHAIRMAN BURTON: What trades do you teach?

25 MS. BUTLER: Well, there's -- we have about 16
26 different ones. We have automotive, welding, upholstery, shoe
27 repair. We have the computer ones. We have the painting ones
28 for both the cars and the regular painting ones. Basically any

1 trade that they would want.

2 We have also have a Trade Advisory Committee
3 which is very active, and so we reach out into the actual
4 employers and try to bridge that gap.

5 And we also have -- to try to avert recidivism,
6 we have what we call a pre-release class, and we try to give the
7 students in that class the tools they need just prior to
8 paroling.

9 CHAIRMAN BURTON: How prior?

10 MS. BUTLER: Well, they're supposed to be within
11 90 days of paroling.

12 CHAIRMAN BURTON: So, what would be the length of
13 that course?

14 MS. BUTLER: Currently, the course is only three
15 weeks, but we just received five new positions, and we are going
16 to take those positions and create a three-month course, and
17 that is with the assistance of the major Headquarters' Education
18 Department that has been funded.

19 CHAIRMAN BURTON: Everybody who is scheduled for
20 release is put in these classes?

21 MS. BUTLER: Currently it is a voluntary program,
22 but we are changing it to make it mandatory, so that when they
23 do release, that They will have this experience. My staff and I
24 have personally gone down to the classes and talked to the
25 inmates that are graduating from those classes. They really
26 like the program.

27 CHAIRMAN BURTON: When it's voluntary, do you
28 have any, just ball park, idea of the percentages who

1 volunteered to go into it as opposed to those who decided not?

2 MS. BUTLER: We had a class capacity of
3 approximately 30, and everytime we had the class we had three
4 teachers, and they were always filled.

5 CHAIRMAN BURTON: So, did anybody who wanted to
6 get in, not get in?

7 MS. BUTLER: No. Anyone who wanted to get in
8 would get in.

9 CHAIRMAN BURTON: If you don't have it now, give
10 it to us later --

11 MS. BUTLER: Certainly.

12 CHAIRMAN BURTON: But what percentage of those
13 who were going out participated in the, say, readjustment
14 program? What percentage didn't? And then, if there was any
15 way, and Mike, maybe you could do that, but check those who went
16 into the program, the recidivism rates for those who were in the
17 readjustment program and those who weren't to see whether they
18 even which I assume they probably would. I think that would be
19 helpful if you could get us that information. In working with
20 the Department, they could probably figure out which ones worked
21 and which didn't.

22 MS. BUTLER: We also have one other position that
23 we have just been granted to have, and that is a person that is
24 going to go out and interact with the community and try to seek
25 jobs. So, that person will be on the road a lot, so he will
26 have a face-to-face contact with the employers, and take the
27 inmates that will have these skills and try to merge or join
28 them.

1 CHAIRMAN BURTON: That's assuming that they're
2 going to go to work in communities close to the prison; right?

3 MS. BUTLER: No. The person will be going into
4 the areas where the inmates will be paroling to.

5 CHAIRMAN BURTON: Okay.

6 On the literacy, anybody that wants to or has to,
7 is there room or not room?

8 MS. BUTLER: There is room in the classroom. And
9 we also have a program for the inmates, and it's kind of like
10 Dr. Lawbucks, you know, each one teach one. So, we have inmates
11 on each program unit, and they assist the inmates in learning in
12 addition to the structured programs. And the inmates themselves
13 find they like to help their fellow inmate in learning, so we
14 have a very active literacy program.

15 CHAIRMAN BURTON: So, you have enough
16 instructors, you have enough instructional material, and you
17 have enough classrooms for any of the students that need
18 literacy training?

19 MS. BUTLER: Well, I would say that anyone who
20 wants to would be put into the program at least within two
21 months, but we can always, you know, use more teachers. We do
22 have a waiting list.

23 CHAIRMAN BURTON: How long's the waiting list?

24 MS. BUTLER: We have a waiting list that is
25 probably a couple months long.

26 CHAIRMAN BURTON: Senator Hughes.

27 SENATOR HUGHES: Good morning. I'd like to find
28 out from you, after an inmate is incarcerated, how soon after

1 their incarceration do you evaluate their level of literacy?

2 MS. BUTLER: The way we have it structured at
3 Chuckawalla, that's part of what we call the orientation
4 process, and the orientation process takes place within the
5 first ten days. That is supposed to have occurred prior to the
6 initial classification of the inmate, where the inmate goes in
7 and we review his factors. And then we try to, in that
8 committee, give him a program that will best fit his needs.

9 SENATOR HUGHES: How long does it take after the
10 orientation process, after the ten days, for them to get into a
11 program? I heard you say that some of them go voluntarily;
12 others don't.

13 What kind of motivational things do you do to
14 stimulate them to make them anxious to get in?

15 MS. BUTLER: I would say that most inmates do
16 want to program because we have privileges, and also a lot of
17 them will get a small amount of money.

18 The part that was voluntary and involuntary was
19 the pre-release program. But I would say that we only have
20 probably six at my institution that are not programming per
21 their own decision.

22 And depending on what program they wish to go
23 into would depend on how long it takes to get in there. Some of
24 the trades take a little bit longer to complete, so those
25 inmates that are in there have to have time to, you know,
26 complete that trade. So, what the inmate will do is, he will
27 get a different kind of job, but he will still be on the trade
28 waiting list. So, we get them programming and working, and we

1 try to instill in them good work habits. And then, if they have
2 a specific place that they want to zero in on, then we make sure
3 that they are on that waiting list.

4 SENATOR HUGHES: I'm really pleased and excited
5 to hear about the tutoring type program that you have. What
6 kinds of rewards do you have to those other inmates who
7 volunteer to be the tutors?

8 MS. BUTLER: Our Supervisor of Education is very
9 pro-active in the reward system. I believe our management staff
10 is, too. We give them Certificates of Appreciation. And we
11 also have what we call chronos, which is information about the
12 inmate, and we write them chronos, acknowledging their
13 participation and their dedication to this task.

14 SENATOR HUGHES: I'm sure that a lot of the
15 motivation and everything depends upon the personality of the
16 inmate, and particularly crimes for which they're incarcerated.

17 What happens when you have an inmate who is very
18 apathetic and depressed within the ten-day period. Do you do
19 referrals for counseling, and how long does that counseling
20 program go on, and what are your expectations for them to get
21 their acts together and get into the stream?

22 MS. BUTLER: You mentioned the word depression,
23 and that raises a flag to us because we have a very assertive
24 mental health program. And our staff have been trained in depth
25 how to recognize inmates that are depressed because sometimes
26 depression goes to negative behavior, possibly suicide. And so,
27 our staff have been trained in depth in that area.

28 Our staff have referred inmates that they feel

1 have been depressed, and the medical department has, you know,
2 over taken their care. And so, that would be done anytime, and
3 especially during the first ten days.

4 However, if it's just a normal, gee, I'm
5 apathetic, or whatever, we do have our counselors. We do have a
6 lot of volunteers here that are very concerned about the
7 inmates' welfare, and we have a lot of religious volunteers, and
8 they come all the way out to Blythe. They're a very dedicated
9 group. And I think they feel that they want to help turn lives
10 around.

11 And we don't have a counseling program there such
12 as other institutions may. If an inmate needs that in-depth
13 kind of counseling, then the medical department will come to us
14 as the transfer people and say, this person really needs to go
15 to another institution where he will receive the service that he
16 needs.

17 SENATOR HUGHES: Do you have to advertise to the
18 inmates that they can have the benefit of the tutorial services,
19 and then, once you assign someone, do the other inmates
20 volunteer to tutor certain individuals, or does your operation
21 place them?

22 I'm wondering about personalities, you know. How
23 do you really work that out? It seems very intriguing.

24 MS. BUTLER: Well, we have a teacher that is over
25 that. She is does the main tying into.

26 But we feel that in a learning situation, it
27 should be beneficial, and so we don't force people to work
28 together if it's not going to work. We try to have situations

1 where you have the optimum learning situation, and so they do
2 try to make personalities, you know, fit.

3 But the inmates themselves, they know they're in
4 there, and they want to have positive things about their lives.
5 So, they do look for areas that they can have a positive, you
6 know, input.

7 SENATOR HUGHES: Sounds like a very exciting
8 program.

9 MS. BUTLER: Thank you.

10 SENATOR HUGHES: Thank you.

11 CHAIRMAN BURTON: Senator Lewis.

12 SENATOR LEWIS: I was wondering if you could
13 just give me an idea in terms of your present population, what
14 percentage of the population at Chuckawalla is there for drug
15 related crimes, and also for violent versus nonviolent?

16 MS. BUTLER: The nonviolent at Chuckawalla is
17 probably lower than at most institutions. We have a population
18 of approximately 3600. Of those, approximately 250 to 270 are
19 lifers. So, if you're a lifer, that usually implies, you know,
20 a violent crime.

21 But I would say at the actual Chuckawalla, the
22 violent inmates are much lower because it is a Level Two
23 institution. I would have to say probably ten to fifteen
24 percent. I would say it would be lower than normal.

25 SENATOR LEWIS: Ten to fifteen percent
26 nonviolent?

27 MS. BUTLER: Are violent.

28 Well, it depends what you classify as violent.

1 We have a lot of drug abuse inmates, you know, that are there
2 for drug crimes.

3 I do not have that actual profile of the actual
4 violent ones. But we look at them as lifers, so those would be
5 the violent ones.

6 CHAIRMAN BURTON: Lifer like life without, or 20
7 to life, or what?

8 MS. BUTLER: The ones we would have would be like
9 15 to life, or 25 to life.

10 CHAIRMAN BURTON: So, indeterminate life
11 sentence.

12 MS. BUTLER: Yes, and they have to have had at
13 least five years within the system prior to coming to a Level
14 Two. And those inmates that are life without possibility of
15 parole are not allowed to come to a Level Two.

16 CHAIRMAN BURTON: So, yours would all be
17 indeterminate life.

18 MS. BUTLER: Yes.

19 SENATOR LEWIS: Any feel on what percentage of
20 your prison population is there just specifically for drug
21 related crimes with no other overlying --

22 MS. BUTLER: I don't have the actual statistics,
23 but just going through files, I would say 50 to 60 percent, if
24 not more, are drug.

25 CHAIRMAN BURTON: Senator Baca, then Senator
26 Knight.

27 SENATOR BACA: Thank you, Senator.

28 One of the questions, following along the same

1 lines, what recommendations would you make to the Department to
2 reduce inmate access to illegal substance, since you mentioned
3 that was a problem?

4 MS. BUTLER: Well, I think we need to give them
5 programs to give them alternatives. And the ultimate choice of
6 whether an inmate is going to use drugs or not is his own
7 decision, so I feel that if the inmate is not going to use the
8 drugs, then there will not be a need to bring them in.

9 We do have programs, Narcotics Anonymous, and it
10 used to be joined with Alcoholics Anonymous. We have now
11 separated those out, and we are zeroing in on narcotic aversion,
12 and Say No to Drugs. We have a very active program on Saying No
13 to Drugs.

14 As far as getting them into the institution, we
15 have a very active screening system where the packages come in,
16 and we have like a florescope so we look at the packages when
17 they come in.

18 But the people that want to send them in are very
19 creative, and we have like packaging that looks like it's right
20 from the vendor, but it has actually been repackaged. So, we
21 have trained our staff on how to do that.

22 We also have visiting program where we feel that
23 the visitors should be there, you know, to have a positive
24 influence on the inmates. And if they don't have a positive
25 influence, then we don't allow them to come in if we find that
26 they are bringing in some.

27 SENATOR BACA: Have you requested for additional
28 educational training programs, as we were talking about it

1 earlier? Have you made any requests?

2 MS. BUTLER: We requested six positions, and we
3 got six positions. One of those is going to be another program
4 for carpentry for another on voc. program. Some of those are
5 going to be for the pre-release program that I described. And
6 then another one will be for the academic, yes.

7 SENATOR BACA: One other question that I have.
8 The law has changed in the amount of good credits that inmates
9 may earn. The law now gives fewer credits than in the past so
10 that the inmates don't get out too early.

11 Have you noticed any difference in the prisoners'
12 conducts as a result of changing the law?

13 MS. BUTLER: Yes, I have. I know that this is of
14 concern to them.

15 When they do some activity, they are very
16 cognizant that it will have a consequence if they are found
17 guilty of this. And so, this is in uppermost part of their
18 minds.

19 SENATOR BACA: Is it positive or negative?

20 MS. BUTLER: I believe it's positive in that it
21 is in the utmost part of their mind, so it may help them in
22 their decision making. And if they want to go ahead and do the
23 crime, then they know that there will be that consequence.

24 CHAIRMAN BURTON: I think the question was, they
25 reduced the good time credit. If you behaved yourself, you
26 still wouldn't get out on time, or you'd get out later than you
27 would have under the old one-for-one deal.

28 MS. BUTLER: They only get 15 percent off as

1 opposed to 50 percent?

2 CHAIRMAN BURTON: Right.

3 MS. BUTLER: That has had an impact as far as our
4 ability to kind of hold, you know, the sword over their heads.

5 But I think at a Level Two, I probably am not
6 seeing this as much as maybe a Level Three or a Level Four.
7 When you're a Level Two inmate, as indicated earlier, we do have
8 a little less violent individual. Or, if he has been violent in
9 the past, he now has proven that he can spend his life without
10 doing a lot of violence.

11 So, we do have some inmates there, and in fact,
12 we were looking at a case, and we needed some mental health
13 assistance, so we were looking at what could we do to assist
14 this inmate. And we found that we had very little options as
15 far as assisting him because he was one of those 85 percenters.

16 So, I think that at a Level Two, I don't feel
17 I've seen the impact that maybe we do at a Level Three or Four.

18 SENATOR BACA: Thank you.

19 CHAIRMAN BURTON: Senator Knight.

20 SENATOR KNIGHT: Thank you, Senator Burton.

21 CHAIRMAN BURTON: You're welcome, Senator
22 Knight.

23 SENATOR KNIGHT: We have a little thing going
24 here. You'll have to bear with us.

25 I'm concerned about the inmates and their
26 education, and the worthwhileness of the education. Certainly I
27 am supportive and believe it's in our best interest to educate
28 the inmates, prepare them for meaningful employment, accepting

1 responsibility once they're released into society.

2 But by the same token, I know that there are
3 hardened criminals, professional criminals as we would suggest,
4 and to that end, I don't believe it's worthwhile providing any
5 education for those people who are definitely criminals, who
6 have espoused to being criminals, and who've professed to
7 continuing along those professional lines even after they get
8 out.

9 I'm sure that you know who those people are
10 within the system.

11 Is it reasonable to provide and spend the dollars
12 in trying to educate those people who are not going to accept
13 it, are not going to utilize it, and they've told you that
14 they're going to be criminals from now on?

15 MS. BUTLER: Well, I used to be an old school
16 teacher.

17 SENATOR KNIGHT: You're still a school teacher.

18 MS. BUTLER: I'm still a school teacher, I must
19 admit. School teachers never give up.

20 I don't know if we have any crystal ball that
21 says this person will always be a criminal.

22 SENATOR KNIGHT: I'm asking, do you screen the
23 people to find out, and screen them and ask them, for example,
24 as well as trying to evaluate the ability or the capability for
25 them to accept and utilize the education?

26 MS. BUTLER: We most definitely do we screen
27 them. We screen them within the first 10 days, 10 to 14 days,
28 as I said, but we continue to work with them. We see them at

1 least annually to discuss their program. If they have any kind
2 of concerns, we bring them to committee. They have a counselor
3 that is assigned to them forever. And those inmates that do not
4 want to go into education, we have other positions that they can
5 find jobs or program to get the privileges.

6 So, do we force people to go into education? I
7 would say no. We have enough people that want to take advantage
8 of that.

9 CHAIRMAN BURTON: Moved by Senator Lewis. Call
10 the roll.

11 I'm sorry. First of all, witnesses in support
12 Very briefly.

13 Why don't you also introduce your family. You
14 forgot that, too; we're even.

15 MS. BUTLER: I'm very proud to present my family:
16 my husband, Jim Butler; my mother, Kathryn Briggs from Michigan.

17 SENATOR KNIGHT: Where in Michigan?

18 MS. BUTLER: Farmington Hills, which is right
19 outside of Detroit.

20 My son, Peter Carlson, and his significant other,
21 Laurie.

22 MR. MABRY: Chairman Burton and the Rules
23 Committee Members, my name is Roy Mabry. I'm the State
24 President for the Association of Black Correctional Workers.

25 First of all, I'd like to welcome your newest
26 Rules Committee Member, Senator Baca, and also Ms. Sabelhaus as
27 the appointments secretary.

28 Today I'm here representing our Association for

1 complete, 100 percent support of confirmation of Warden Butler.

2 I also brought my Senior Vice President, Ms.
3 Jackson Gray, she'll just raise her hand; and also my Junior
4 Vice President, Ms. Debra Dexter.

5 So, to the Committee Members, we support
6 confirmation 100 percent.

7 CHAIRMAN BURTON: Thank you.

8 MR. MABRY: Any questions?

9 CHAIRMAN BURTON: No.

10 MR. SEARCY: Good morning Senator Burton and
11 Committee Members.

12 I am Frank R. Searcy, President of the Chicano
13 Correctional Workers Association.

14 First of all, again, I'd also like to on behalf
15 of the Association congratulate Mr. Baca and Ms. Sabelhaus for
16 her appointment.

17 Anything I would say at this point, ladies and
18 gentlemen, would only confirm your positive administrative
19 abilities that Ms. Butler has demonstrated today. Nevertheless,
20 I'd like to share some things with you.

21 One is that approximately two, three months ago,
22 as Association President, I was receiving some information that
23 was of mutual concern to Ms. Butler and to our Association. So,
24 at that time, I decided to go and visit Ms. Butler. And I took
25 one of my administrative assistants with me.

26 We approached Ms. Butler. She very, very
27 graciously took time from her busy schedule to listen to some of
28 the concerns that were coming to my attention. We discussed

1 them. She responded. And I can say at this point that she has
2 responded very appropriately, in a positive manner, to those
3 concerns. I'd like to think by what I have heard that those
4 matters of concern are being dealt with in a positive manner
5 also.

6 Again, I just want to repeat that her academic
7 achievements as you have heard today, very, very well qualifies
8 her, and I like that part about the teaching. Yes, she will
9 always be a teacher, and she will always be teaching us also.

10 Gentlemen and Ms. Hughes, we'd like to offer our
11 endorsement and hope that you will see it also that Chuckawalla
12 Valley State Prison deserves Ms. Butler.

13 Thank you.

14 CHAIRMAN BURTON: Any other support?

15 MR. FLAHARTY: Good morning, Mr. Burton and
16 Committee Members. I've been attached to the Chuckawalla Valley
17 State Prison for 10 years, since it's been opened.

18 I'm sorry. I'm John Flaharty, a correctional
19 officer, Chapter President of the Blythe Chapter of the CCPOA.

20 I've been attached there about ten years since
21 we've opened. We've had six wardens set in the seat. Out of
22 that six, we've had two wardens: one, Theo White in 1991; and
23 now Diana Butler as the Warden.

24 This chapter has probably had the best
25 relationship with management in the ten years that we've been
26 open. I've watched disciplinary action on both sides of the
27 fence, whether it be supervisors or rank and file, and it's all
28 been dispensed evenly and justly.

1 Ms. Butler is probably the only warden I've seen
2 walk the yards on first watch, second watch, third watch; not
3 only talk to staff, but mingle and talk with the convicts to
4 find out the problems and try to solve the problems at this
5 institution.

6 I'm here on behalf of about 400 officers and
7 about 60 supervisors to endorse Warden Butler. We urge an aye
8 vote from the Committee.

9 Thank you.

10 CHAIRMAN BURTON: Any other in support?

11 Any opposition?

12 MS. BIRD: Hello. I'm Cayenne Bird. I'm a
13 journalist and the Director of UNION, which is a prisoner family
14 organization recently formed with about 4,000 members here in
15 California.

16 We're not actually objecting to Ms. Butler's
17 appointment, though it is a form of objection, though, because
18 there is a little negativity.

19 CHAIRMAN BURTON: You're objecting to the
20 system?

21 MS. BIRD: No. I have a wheel barrow full of
22 complaints from prisons all over the state, and we actually have
23 the least from Ms. Butler's administration.

24 CHAIRMAN BURTON: That's what I mean.

25 MS. BIRD: But there are a few matters of serious
26 concern that I would just like to briefly mention so that it
27 goes on the record.

28 In fact, she is the only one out of the three

1 here today that we do endorse. The other two we definitely do
2 not endorse and have some very gross violations of humanity, and
3 the law, and serious things that Ms. Sabelhaus has agreed to
4 work with us in looking into these matters.

5 But as far as this particular appointment, we are
6 happy to say that we have the least complaints from this
7 particular facility, and they almost all seem to be related to
8 lack of medical services in emergencies, that sort of thing.
9 The men are being treated as caged animals all over the state.
10 Lack of even an emergency -- a doctor being on the premises.

11 Thirty-six hundred people is the same as a small
12 city. Often the doctor is just not there. And there are no
13 referrals to specialists. Animals in the zoo are treated better
14 than our inmates.

15 I'm a mother of an inmate. I have a number of
16 families here today. We worked hard in the election. We put
17 300 prisoner families out into the Gray Davis offices. We're
18 optimistic of what's going to happen in the new administration,
19 but we're a little skeptical at the same time.

20 We would like to also have some racism
21 accusations looked into out there.

22 The normal thing that happens among the inmates.
23 What you might consider business as usual means a lot more to a
24 mother, and we're very much more sensitive to these things
25 because these are our children, our husbands, our family members
26 that have been taken for the industry of human bondage, which
27 really is not a solution to crime. We're hoping that we in the
28 UNION can sway the state toward more progressive viewpoint of

1 restorative justice, the way that Minnesota and Vermont, and
2 some of the other states have already gone. We think that
3 education, rehabilitation, prevention is a better focus than
4 retributive justice.

5 Anyway, we'd just like to say that about this
6 particular appointment, that we are hoping the medical problems
7 will be looked into. We really appreciate her approach as a
8 teacher, and we do have the least amount of complaints on this
9 particular prison.

10 CHAIRMAN BURTON: Thank you.

11 MS. BIRD: Thank you.

12 CHAIRMAN BURTON: Call the roll.

13 SENATOR HUGHES: If can I ask, could Ms. Butler
14 respond to the criticism as the administrator of that
15 institution on the medical end? Could you, please?

16 MS. BUTLER: Whenever I hear any kind of medical
17 concerns, I have them dealt with immediately. I have a very
18 good relationship with the Chief Medical Officer or the Health
19 Care Manager. And if they bring issues to me, I will look into
20 them.

21 However, the health care management is a system
22 that is separate from the Warden. So, we don't have the
23 authority over the medical.

24 But whenever we become aware of any concerns, I
25 do present it to the medical. And as far as I know, the medical
26 has always responded immediately to any concerns that I have
27 brought to them.

28 So, if she has specific concerns, I would most

1 definitely like to look into them.

2 SENATOR HUGHES: And will you be looking into
3 them?

4 MS. BUTLER: Yes, I will.

5 SENATOR HUGHES: All right, that's all I wanted,
6 was a commitment that you would look into them.

7 MS. BUTLER: Oh, I certainly will.

8 SENATOR HUGHES: Thank you.

9 SENATOR LEWIS: Is there a full-time physician on
10 staff?

11 MS. BUTLER: We have five physicians, but they
12 are not there 24 hours. But we do have medical staff on grounds
13 24 hours.

14 SENATOR KNIGHT: Question.

15 CHAIRMAN BURTON: The health part is separate
16 from the Warden. That's run directly by the Department of
17 Corrections?

18 MS. BUTLER: Yes.

19 CHAIRMAN BURTON: And you have five docs. You
20 do not have a doctor on 24 hours. In other words, it's not a
21 doctor there 24 hours. Are they close enough that they're on
22 call, or what?

23 MS. BUTLER: They're either on call, or we
24 immediately take them to the local hospital which has the
25 emergency room.

26 CHAIRMAN BURTON: What do you have there 24
27 hours, like nurses in a clinic?

28 MS. BUTLER: Yes, we have the nurses in the

1 clinic. We have ten rooms or ten man beds.

2 CHAIRMAN BURTON: And you have 24 hour, that
3 type?

4 MS. BUTLER: Yes, we have 24 hour service there;
5 yes, we do.

6 SENATOR KNIGHT: Just a short question.

7 If you're not responsible for the medical, who on
8 site is responsible for the medical condition?

9 MS. BUTLER: We have the Health Care Manager, and
10 he is responsible for the medical care.

11 But I wish to reiterate that we work very well
12 together. If he sees any concerns in my area, he very freely
13 brings them to me and vice-versa.

14 SENATOR KNIGHT: Are you considered, then, on a
15 par from managerial standpoint with him?

16 MS. BUTLER: As far as --

17 SENATOR KNIGHT: Who has ultimate decision over
18 what happens?

19 MS. BUTLER: Well, it depends. We have to work
20 together because I control like the transportation of inmates,
21 but if he needs an inmate transferred, we have to work together,
22 you know, to transfer the inmate. He makes a medical decision.
23 If I get information that makes me believe that this is not
24 good, then I have an avenue to make it go upstairs, if you will,
25 and bring other people's attention to this.

26 SENATOR KNIGHT: If you have a disagreement, it
27 goes to the Director or the Secretary?

28 MS. BUTLER: I believe there are more levels

1 before that, and we try to resolve it at the lowest level. But
2 at this point, we have not had any disagreement.

3 SENATOR KNIGHT: But if you do?

4 MS. BUTLER: If we do, then I would take it to my
5 supervisor, and he would take it to his supervisor and say,
6 well, what is the Department's policy, because it would be more
7 of a departmental policy that maybe we need a clarification on,
8 because I do believe that he's trying to do the right thing.

9 CHAIRMAN BURTON: As long as we're into this,
10 just a brief thing.

11 What did you call the person? It sounds like a
12 bureaucrat.

13 MS. BUTLER: Health Care Manager.

14 CHAIRMAN BURTON: And that person's like on site
15 in the prison?

16 MS. BUTLER: Yes. He is a medical doctor, yes.

17 CHAIRMAN BURTON: He's a medical doctor in the
18 prison, and he's responsible for the other four docs, the ten
19 nurses, the orderlies, whatever?

20 MS. BUTLER: Yes. He has hiring authority.

21 CHAIRMAN BURTON: Be a nice issue for you to
22 look at, Simon, the Public Safety Committee.

23 Call the roll.

24 SECRETARY WEBB: Senator Baca.

25 SENATOR BACA: Aye.

26 SECRETARY WEBB: Baca Aye.

27 SECRETARY WEBB: Senator Hughes.

28 SENATOR HUGHES: Aye.

1 SECRETARY WEBB: Hughes Aye. Senator Knight.

2 SENATOR KNIGHT: Aye.

3 SECRETARY WEBB: Knight Aye. Senator Lewis.

4 SENATOR LEWIS: Aye.

5 SECRETARY WEBB: Lewis Aye. Senator Burton.

6 CHAIRMAN BURTON: Aye.

7 SECRETARY WEBB: Burton Aye. Five to zero.

8 CHAIRMAN BURTON: Congratulations, Warden.

9 MS. BUTLER: Thank you.

10 CHAIRMAN BURTON: Next, Thomas Carey,
11 Correctional Institution, Tehachapi.

12 MR. CAREY: Good morning, Mr. Chairman, Senators,
13 and guests. I am Tom Carey, the Warden at the California
14 Correctional Institution in Tehachapi, California.

15 I bring to this assignment many positive life and
16 work experiences. I have been married to my wife, Tamsen, for
17 34-and-a-half years, and we have raised five children. If I
18 may, I would like to acknowledge my wife Tamsen and my son
19 David, and my daughter Kathryn. Appreciate your being here.

20 I've had the experience of earning my Bachelor's
21 Degree from Cal. State Fullerton and returning to college some
22 12 years later to earn my Master's Degree from Whittier College
23 in 1977, Master's Degree in Education, while working full-time
24 to support my family.

25 I have had the experience of successfully working
26 and promoting in a major corporation. Over the years, I have
27 received the blessings from donating thousands of hours to those
28 to whom I serve in my church activities.

1 I've had the opportunity to work at Patton State
2 Hospital, San Quentin State Prison, Mule Creek State Prison.
3 Served as the Chief of Training at the Richard A. McGee Training
4 Center, Chief Deputy at Correctional Training Facility in
5 Soledad, and presently am serving as the Warden at CCI.

6 CCI is unique. It's the only male prison in
7 California that has a reception center, and Levels One, Two,
8 Three and Four. As we all know, the operations of a prison are
9 becoming more and more complex. The demands made on a warden to
10 provide leadership and direction during these demanding times is
11 enormous. My background, coupled with my desire to continue to
12 serve the citizens of the State of California, provide the
13 strength that I need to lead CCI today and into the future.

14 And at this time I would very much like to
15 acknowledge the support that I have from my staff at CCI, and
16 the direction that we're heading.

17 Thank you.

18 SENATOR LEWIS: Thank you, Warden.

19 According to go our records, your institution is
20 at 211 percent of capacity. What kind of special challenge does
21 that create for you?

22 MR. CAREY: That creates a challenge for us in
23 providing ample work opportunity and educational opportunities.
24 Of those that are qualified in my institution to attend either a
25 work activity or an education program, we run at 97 to 98
26 percent of occupancy. That's a function of size. We are
27 running at over 210 percent, as you said, 214.

28 It's -- as you well know, we're the third oldest

1 prison in the system, and so space is an issue. But we do run
2 at over 3,000 inmates on a monthly basis that either have a work
3 assignment, an educational assignment, or assignment in PIA.

4 SENATOR LEWIS: What about additional inmate
5 violence or strife because of overcrowding? Is that a concern?

6 MR. CAREY: As overcrowding is a contributor to
7 violence in the institution, I'd like to say that at CCI, since
8 March of this year, we have not had an entire facility lockdown
9 since March of this year.

10 In order to reduce violence in the institution,
11 we've adopted a cornerstone at CCI, and that cornerstone is
12 simply this, that everybody is significant. That includes every
13 staff member and every inmate is significant. And when you
14 believe that, Senator, you tend to treat people differently.

15 So, we acknowledge the needs of the inmates, and
16 they acknowledge our role as their caretaker and provider of
17 education and other programs. We work very hard to keep
18 violence at a minimum.

19 SENATOR LEWIS: At your institution you have
20 Levels One, Two, Three and Four?

21 MR. CAREY: Yes, we do.

22 SENATOR LEWIS: I want to ask you the same
23 question I asked your predecessor. Just in an aggregate, do you
24 have a sense of what percentage of your inmates there are
25 violent versus nonviolent, and also are there solely for
26 drug-related crimes?

27 MR. CAREY: I cannot answer that question with
28 detail, but I can answer it from an overview point of view.

1 The Level One institution, they're normally there
2 on a parole violation, so that would be about 1200 of my inmates
3 that are there for nonviolent types of commitment.

4 At my Level Two institution, you can have inmates
5 there that are actually -- have committed violence and have drug
6 histories.

7 We get to the Level Three, then it becomes again
8 more prevalent that they have violence in their background and
9 drugs in their background.

10 Get to the Level Four institution, which is
11 approximately 1600 inmates, and I will verify, but I would say
12 the number is probably in the 80 percent that have a combination
13 of either drugs or violence in their background.

14 SENATOR LEWIS: What about separating them out?

15 MR. CAREY: Separating the --

16 SENATOR LEWIS: Nonviolent drug offenses versus
17 drugs and violence or violence?

18 MR. CAREY: I'm not following your question.

19 SENATOR LEWIS: You said that 80 percent were
20 either for drug-related or for violent crimes. I'm asking --

21 MR. CAREY: Or a combination. So, you're asking
22 to separate them?

23 They are. They're in the Level Four institution.
24 They do not mingle with Level Ones, Twos, Threes, if I'm
25 following your question.

26 SENATOR LEWIS: That's okay.

27 Questions from other Members?

28 SENATOR KNIGHT: When you indicate that you're at

1 211 percent of capacity, what's that based on? What's 100
2 percent capacity? Not the number, but how do you define it?

3 MR. CAREY: The institution was designed for
4 2,457 inmates. That's the design capacity of One, Two, Three
5 and Four. That's the design aspect.

6 SENATOR KNIGHT: But that's a number. How is
7 that distributed within the institution? Is that one inmate per
8 cell, or five per cell, or what?

9 MR. CAREY: We have double celling as our
10 standard.

11 SENATOR KNIGHT: That's the way the institution
12 was built.

13 MR. CAREY: Yes. It was built with double cells
14 on the Levels Four and the Level Threes. Our Level One and our
15 Level Two are built as dormitory settings, so they're not cells.
16 They're dormitory setting.

17 In the Level One, we have a gymnasium, and that
18 gymnasium houses inmates. That's how we get the overcrowding in
19 the Level One. We don't put more -- We're not triple bunking;
20 we're just double bunking.

21 Our Level One facility has a dormitory and it's
22 full. And our Level Four has a dormitory, or a gymnasium that
23 we house them temporarily in.

24 SENATOR KNIGHT: So, your Level Four A and B are
25 both gymnasium types?

26 MR. CAREY: No, our Four A and B is our Level
27 Four institution. It's 180 design building, and it has double
28 cells in those facilities.

1 SENATOR KNIGHT: What do you mean 180? It says
2 here 500 design capacity.

3 MR. CAREY: A 180 refers to the shape of the
4 building. If you're standing in the control booth, you can
5 basically look at a 180 degree, and you can see all of the
6 cells at 180 degrees.

7 SENATOR LEWIS: Senator Baca.

8 SENATOR BACA: Thank you, Senator.

9 My question pertains to literacy. As I was
10 looking at the statistics and reading here that a recent study
11 completed the level of inmates revealed that 65 percent of the
12 population was at the fifth grade reading level. And of that,
13 65 percent of the population was at the fourth grade reading
14 level.

15 What programs have you implemented to improve the
16 skills of your inmates?

17 MR. CAREY: We have a very active education
18 program and a very active literacy program.

19 At the institution, if you do not read at the
20 sixth grade level, by policy you must attend. You must. If you
21 refuse to attend, then you are put on what is called C Status,
22 and C Status severely restricts your privileges. So, if you
23 test during the classification process as lower than sixth grade
24 level, you will attend An education literacy program.

25 SENATOR BACA: It would be mandatory for each one
26 at each of the levels, or not?

27 MR. CAREY: In each level, yes. We have a
28 literacy program throughout the institution.

1 And if I might add, it's very well received, and
2 we've had some good publication in the L.A. Times and other
3 papers concerning our literacy program and the success that we
4 are having in elevating the educational level to at least the
5 ninth grade level.

6 SENATOR BACA: What kind of educational or
7 training opportunities does the institution provide?

8 MR. CAREY: We have a very active education
9 program, as I indicated. We have approximately 1800 to 1900
10 inmates at any one given time in our education programs and
11 vocational programs, and they run at between 97, 98 percent
12 filled.

13 We do have a waiting list. That, again, goes
14 back to the original question of the fact that we're
15 overcrowded, and we just only have so many classrooms.

16 But I am pleased to advise the Committee today
17 that we have just received permission to establish 15 more
18 educational positions. It's our intention to immediately
19 establish 10 additional vocational instructors and five academic
20 instructors. We will be going into an additional sifting on our
21 third watch. And if you take that times 24 students, it gives
22 us a great opportunity to reach more of our inmates.

23 SENATOR BACA: Can you identify specifically what
24 type of programs?

25 MR. CAREY: They're in the process of staffing
26 that out. But right now, we're going to go into the vocational
27 program and we're going to emphasize our heating and
28 refrigeration. Our institution is one of -- the only one in the

1 State of California that you can get a license as a licensed
2 heating and refrigeration mechanic, so that when you leave the
3 institution, you're employable at the range of about \$18 an hour
4 to start. So, we're going to double that program.

5 We have a very successful upholstery program.
6 We're going to double that program. Unfortunately, there's a
7 lot of car accidents on the street, and there's a high demand
8 for folks that can put cars back together. We're going to
9 expand our automotive shop.

10 And we're going to expand our computer
11 refurbiration program.

12 So, those are four specifically that we are, out
13 of this 15, going to have a duplicate.

14 SENATOR BACA: Along the other areas that I
15 asked, I want to be consistent in asking some of the questions,
16 I think you've identified a certain percentage of problems that
17 we had between drug problems and substance abuse problems.

18 What recommendations do you make to the
19 Department to reduce inmate illegal substance, if there is a
20 problem there?

21 MR. CAREY: The recommendation that we continue
22 to make to the Department is to use technology. Fido is good at
23 sifting out drugs, but unfortunately, Fido can be tricked. As
24 technology comes, there's more and more sophistication with
25 wandng, with going through all kinds of walk-through devices.
26 They can actually defect a range of about 15 different
27 narcotics. It's fairly expensive, but we are pushing forward to
28 have that technology brought into our institutions.

1 SENATOR BACA: Then the other question that I
2 asked the other one is, the law has changed in the amount of
3 good time credits that inmates may earn. The law now gives
4 fewer credits than in the past so that inmates don't get out too
5 early.

6 Have you noticed any difference in prisoners'
7 conduct as a result of the change in the law? If so, has the
8 change been positive or negative?

9 MR. CAREY: Yes, I have noticed, and yes, it has
10 been positive. That might sound peculiar.

11 CHAIRMAN BURTON: Very.

12 MR. CAREY: The reason is, you get your good time
13 credit, even though it's smaller. You get it based upon
14 performance and behavior. So, it makes those jobs wherein you
15 can get that small credit very valuable. If you lose that job,
16 then you lose that credit.

17 So, it's had a very positive effect on the
18 behavior of those in our educational programs, our PI programs,
19 our vocational programs because, in one case I have a waiting
20 list, and if you lose your job, and you're not earning that good
21 time credit, then it has a negative impact.

22 CHAIRMAN BURTON: It would have the same impact
23 at 20 percent, 25 percent, 30 percent, 40 percent, or the old 50
24 percent; right?

25 MR. CAREY: Yes, that's true. It's true.

26 SENATOR KNIGHT: I asked the same question. In
27 talking to various educators within the correctional
28 departments, they have indicated to me that if you screen the

1 inmates, you will find that there are some of them that are
2 hardened criminals. They'll tell you what they're going to do
3 when they get out. They have no intention of being
4 rehabilitated.

5 Is there any effort within your institution to
6 define those individuals and to make sure that we don't expend
7 funds on people who are not going to accept it, or not going to
8 utilize it?

9 MR. CAREY: The answer to your question, yes, we
10 do have a program. It begins with the classification and the
11 screening process. Then it's further extended into the
12 classroom.

13 I, too, have been a former teacher. And
14 disruptive behavior not only affects those trying to learn, but
15 those that are trying to get into the class. So, if an
16 individual demonstrates by their behavior that they do not want
17 to be in that classroom, they do not want to study, they will be
18 removed from the class. And they will not be allowed to disrupt
19 the education process.

20 SENATOR KNIGHT: That's pretty obvious, but there
21 are other individuals who go to class, and sit there, and take
22 up time and space, expenditure, just for the mere satisfaction
23 of sitting there doing nothing.

24 MR. CAREY: Senator, those individuals do
25 self-identify.

26 SENATOR KNIGHT: Do you get rid of them as far as
27 the education is concerned?

28 MR. CAREY: Yes. The teacher will do an

1 evaluation. We heed that evaluation, and they will be removed
2 from the class.

3 SENATOR KNIGHT: That's why I spent 32 years in
4 the military.

5 CHAIRMAN BURTON: And served us all well, I
6 might add.

7 Two questions. One, are your pre-release
8 programs the same as the previous warden's?

9 MR. CAREY: Yes. It's ten days prior to -- it's
10 a ten-day program.

11 CHAIRMAN BURTON: Then it's not the same as hers
12 because hers is 30 going to 90. Yours is 10.

13 MR. CAREY: No, it's a 10-day program.

14 CHAIRMAN BURTON: Hers is 30. It's not the
15 same.

16 MS. BUTLER: Three weeks.

17 CHAIRMAN BURTON: Yes, three weeks; I'm sorry.
18 Do you think ten days is enough to get somebody
19 ready?

20 MR. CAREY: No.

21 CHAIRMAN BURTON: What's the problem, funds,
22 space, what?

23 My problem with the whole prison system is, by
24 and large, for whatever reason, my belief is, not for whatever
25 reason, that when people go in, I want them to come out better
26 than when they went in. And that means we've got to do
27 something, not necessarily to them but with them when they go
28 in.

1 And if you really don't prepare them for the
2 outside, and I don't know if ten days can prepare somebody who's
3 been in the jail for I don't know how long, to go out.

4 MR. CAREY: You're correct. We do not wait until
5 that pre-release time. It starts with the first day they go
6 into an education program, or they go into a vocational
7 program. We start there to develop their self-worth, their
8 value, to give them skills, to teach them to read and write, to
9 have options when they do release out into the community.

10 CHAIRMAN BURTON: What are you doing in the
11 pre-release program? Telling them to expect a whole lot of
12 disappointment, conceivably, and how to deal with that?

13 I'm serious.

14 MR. CAREY: No. In the pre-release program, we
15 focus on a lot of the very necessity things they need to do,
16 getting a driver's license, getting a place to live, how to
17 account for their money, how to account for their time, making
18 sure that they have a resume available when they go out to start
19 looking for employment.

20 In that pre-release program, it's very critical
21 that we get this fresh in their minds at that time.

22 But the preparation to go back out into our
23 communities starts with the day that they arrive.

24 CHAIRMAN BURTON: I think one of the things, and
25 again, I think that Public Safety or another committee ought to
26 just look at the differences in the various institutions and the
27 length of them, whatever is in the pre-release.

28 I don't know if you'd have the answer to this,

1 but they can get a license for heating and cooling. Usually, if
2 you have a felony, you can't get a license in this state. Many
3 years ago, when you were you just Airman One, it was called to
4 my attention that people used to learn a trade, and these were
5 barbers. Learn a trade in prison, this was at San Quentin.
6 Then, when they come out, they try to get a barber's license.
7 They couldn't because they were felons.

8 So, I put a bill in that basically said, if you
9 learn the trade in prison, you get the license. Otherwise,
10 teach them something that doesn't take a license. So, I don't
11 know. May that's something check out whether that applies. But
12 it's a very bizarre thing if you teach somebody to be qualified
13 to get a license, and they go to apply, have you ever been
14 arrested? Yeah. For what? You can't get it.

15 Do you know whether that --

16 MR. CAREY: I know that we applaud the
17 legislation that you got passed. But I know in our
18 refrigeration and air-conditioning, they may get a license if
19 they pass the national test.

20 CHAIRMAN BURTON: So it's not held against them?

21 MR. CAREY: It is not.

22 CHAIRMAN BURTON: Witnesses in support. I'm
23 sorry, Senator Hughes.

24 SENATOR HUGHES: Before we get to that, what
25 about medical services? Have you had any complaints, or do you
26 check with your Medical Director? Because if you're
27 overcrowded, you're going to have a problem whether it's injury
28 or just common cold because too many people in one specific

1 place.

2 Do you look into that? Are you on top of it?
3 And how do you feel your relationship should be with your
4 medical services, or what is it?

5 MR. CAREY: To answer your first question, yes, I
6 have a very good relationship with my medical department. And
7 yes, I do look into medical issues.

8 At CCI, I have some statistics in here, but we
9 have approximately 6,000 sick calls per month. And we have
10 approximately 5939 inmates as an average. So, we have 6,000
11 sick calls a month that are documented. We provide over 5,000
12 prescriptions a month. We have over 2,000 dental appointments a
13 month.

14 So, you can see that we have a very large medical
15 department. I have deep compassion and passion for those that
16 are under my charge, and they are going to get the care that
17 they're entitled to. Everytime there's a medical complaint,
18 it's brought to my desk, and I review that With the Chief
19 Medical Officer, my chief deputies, and all those that are
20 involved.

21 To tell you that we can 100 percent satisfy the
22 desires of each inmate is foolish. I will not do that. We have
23 some inmates that choose to self-medicate. They tend to tell
24 the doctor what's wrong with them, and I don't think they've
25 gone to medical school.

26 SENATOR HUGHES: Most people do that, too. When
27 they go to the doctor, they tell him what's wrong.

28 MR. CAREY: It's important to share that, but we

1 have a very active medical department, and every complaint is
2 considered very, very seriously, and we look into that.

3 SENATOR HUGHES: What is your biggest frustration
4 in your job, considering the size of your institution, the size
5 of the population at your particular institution. What is your
6 biggest frustration?

7 MR. CAREY: My biggest frustration is with the
8 infrastructure of the institution. I would love to provide more
9 services to the inmates, but it's a function of size.

10 SENATOR HUGHES: What kinds of services would you
11 provide?

12 MR. CAREY: I would like to expand, continue to
13 expand my education and my vocational program. I feel a great
14 need to expand our religious programs. We have all the faiths
15 sharing common space, and it's difficult for them to get all the
16 time that they need. It's just a function of -- that's my
17 biggest frustration, is to be able to satisfy the needs that the
18 staff would like to like to provide and to meet the needs of the
19 inmates.

20 Again, it's a function of overcrowding and of
21 actual space. So, that's a big frustration.

22 SENATOR HUGHES: Do you feel, as Senator Knight
23 does, that there's some hard core people who will never be
24 rehabilitated, or do you feel that there's hope for everybody,
25 maybe, some day?

26 SENATOR KNIGHT: There are no bad kids.

27 MR. CAREY: In my heart, I never give up. But I
28 have had some experiences with individuals. Inmates tell me

1 that the only reason, only reason, that I'm not out doing things
2 that I was before is because you've got me here. That's only
3 reason.

4 It's sad. We try to change their behavior. We
5 never give up on them.

6 SENATOR HUGHES: Isn't it also dependent upon the
7 times that they have been incarcerated, whether they're first
8 timers or whether they've been there many times in many
9 different institutions?

10 MR. CAREY: Yes, you can witness -- a youngster
11 comes in, and he's got this macho image. And over time, that
12 tends to go away. So yes, that is a factor.

13 SENATOR HUGHES: Thank you.

14 CHAIRMAN BURTON: Witnesses in support.

15 MR. JIMENEZ: Mr. President Pro Tem, Senators, my
16 name is Mike Jimenez, and I'm the Executive Vice-President of
17 the California Correctional Peace Officers Association. I state
18 that for identification purposes only.

19 I'm here in support of Mr. Carey. I've had the
20 opportunity to work with Mr. Carey. I've never actually worked
21 for him as an officer, but I have worked with him on the
22 Correctional Peace Officers Standards and Training Commission.

23 As a former Chief of Training, Mr. Carey clearly
24 recognizes the need to enhance this profession. I think he has
25 shown his leadership and his willingness to do the best for what
26 correctional officers need.

27 I'd like to make mention of the fact that Mr.
28 Carey has approximately a thousand officers working at his

1 institution. It's one of our larger institutions in the state.
2 Typically we have -- we receive more complaints out of our
3 larger and higher level institutions, not only from the staff
4 that work there but from the inmates as well. And those that we
5 have received and brought to Mr. Carey's attention, he has given
6 us an open door to address those. He has been reasonable and
7 fair.

8 Very clearly, we don't agree on everything; as a
9 matter of fact, we disagree on a lot, but he has demonstrated
10 himself as a fair and reasonable man in reaching a solution on
11 many of those issues.

12 Thank you.

13 CHAIRMAN BURTON: I have a question of the
14 Warden. Kind of following Senator Knight and Senator Hughes'
15 questions, do you have a lot of older inmates?

16 MR. CAREY: Our population is aging. We do not
17 have a lot of olders, but the population is aging. Due to the
18 Three Strikes laws, et cetera, it is aging. I can see that.

19 I did not bring the demographics to tell you how
20 many.

21 CHAIRMAN BURTON: The question would be, and it
22 seems that especially when you get into what I think the major
23 concern people have is violent criminals, is usually at age of
24 40 or something, you don't see a lot of 50-year-old drive-bys,
25 muggings, a lot of that stuff.

26 Again, this isn't yours, but I think it'd be
27 Department policy, I think that when we get to some of the,
28 shall we say, geriatric prisoners, regardless of what got them

1 to that point, that we might look at alternate ways to deal with
2 them, which would then free up your space to do more for people
3 that there's a chance to do something with, or free up space to
4 do something with the people that may well be incorrigible, and
5 there's no chance of them either one, getting out, or two, if
6 they got out, you can give them a return bus ticket.

7 I think, again, that's something for the
8 Department of Corrections.

9 Other witnesses in support, please.

10 MR. MABRY: Again, Chairman Burton and Rules
11 Committee Members, my name Roy Mabry, the State President for
12 the Association of Black Correctional Workers.

13 I also completely support Warden Carey for
14 confirmation. We've had some dialogue months ago also over some
15 employee problems and a couple of phone calls. And he looked
16 into the some of the issues, then he called me back, and
17 everything was resolved completely. With that alone, it just
18 showed me his willingness to work look beyond what normally
19 exists, and try to find some fair grounds to some things.

20 With that, on behalf of our membership, complete
21 support.

22 CHAIRMAN BURTON: More witnesses in support.

23 MR. ISLAM: Good morning, Senator. I'm Yusuf
24 Islam, the Muslim Chaplin at the California Correctional
25 Institution at Tehachapi. I've been there since 1975.

26 I can say that since I've met Mr. Carey, that my
27 work incentive has even increased. I appreciate having him
28 there because my job in dealing with the inmates, I'm there on

1 the ground level. I'm dealing with inmates everyday. That's
2 where I spend my time.

3 The problems that arise, I can go to Mr. Carey
4 and explain them to him, and he takes care of them. The man has
5 the integrity, something that I can appreciate.

6 The inmates that I talk to, even if it's an older
7 inmate, I have inmates that I can talk to everyday that knew Mr.
8 Carey when he was at San Quentin. Because when he came, I met
9 him, and they said who he was. I go to the inmates and say,
10 hey, we're getting a new warden. And I tell them who, and they
11 say, oh, Mr. Carey.

12 These inmates speak highly of Mr. Carey, the ones
13 that I have met that knew him way before I did.

14 Now that I've come to know him for myself, they
15 know what they're talking about. He's a fair man. They can
16 appreciate that.

17 But staff, I can speak also for some staff.
18 Staff is appreciative, too, of Mr. Carey. Their attitudes have
19 changed from coming to work. He has an impact on everybody at
20 that institution.

21 So, I support him, and many of us support him.
22 He's a good man, and it's changing.

23 I thank you.

24 CHAIRMAN BURTON: Sir, you're a minister on
25 staff?

26 MR. ISLAM: Yes, sir, Muslim Chaplain.

27 SENATOR KNIGHT: Those inmates who knew Mr. Carey
28 when he was at San Quentin, they've been there some time.

1 [Laughter.]

2 CHAIRMAN BURTON: Far be it from me to say you
3 didn't do much of a rehabilitation job.

4 SENATOR KNIGHT: That's right.

5 CHAIRMAN BURTON: When were you at San Quentin?

6 MR. CAREY: In 1983.

7 CHAIRMAN BURTON: My brother left then. He was
8 a teacher.

9 MR. SEARCY: Thank you again, Senator Burton.
10 Again, Frank R. Searcy, President of the Chicano Correctional
11 Workers Association.

12 I think it's really important that we confirm a
13 couple of things. One is, yes, like has been said earlier,
14 there may be some opposition.

15 On the other hand, like any organization, the
16 head of that organization cannot and should not be expected to
17 be perfect, because maybe the one that is perfect, and he even
18 said he wasn't perfect, he walked on water and we know happened
19 to him.

20 What I think is significant at this point is that
21 Mr. Carey has pointed out a couple of things in two sectors that
22 I'd like to briefly address. One is a strong, strong concern
23 for the inmates. That has been proven by his programs that he
24 has established for them, his concern for them.

25 And like he just got through himself saying,
26 Senator Knight, he never gives up on that inmate that says, I
27 will never change. He never gives up on him.

28 The other factor that I think is significant and

1 very important, besides the inmate body, is the staff. We have
2 already heard some mention about his concern for staff. And
3 it's very important, because in working in an institution, that
4 administrators should be sensitive and recognize the two things,
5 the inmate body and the staff, because the staff and the inmate
6 is what makes the Warden.

7 At this time, both of them have made Mr. Carey
8 the Warden, and we know that you will also confirm him today.

9 Thank you.

10 MR. ROMBOUTS: My name John Rombouts. I'm the
11 Mayor of the City of Tehachapi. I've lived in Kern County for
12 40 years. I've lived in Tehachapi for 30 years.

13 I was with Senator Knight at Edwards Air Force
14 Base when I was a lieutenant and he flew the X-15.

15 SENATOR KNIGHT: We have both got gray hair.

16 MR. ROMBOUTS: I'm here in support of Tom Carey
17 but also Larry Small. Our institution for many years went
18 through many temporary wardens. When Larry Small showed up, he
19 was very enlightening. One morning I got a call from Mr.
20 Terhune -- Cal, I hope I don't insult you on this -- he said,
21 I'm going to take Larry. I've got another assignment for him,
22 but I have another person coming to Tehachapi that I think that
23 you'll very much enjoy.

24 That week, I talked with Cal four times on the
25 phone. If you want to get him, you call him before 7:00 o'clock
26 in his office, and he answers his own phone. He wouldn't tell
27 me who it was, but one night at our council meeting, a gentleman
28 showed up, gray-haired gentleman, looked older than I am.

1 He introduced himself after the council meeting
2 and it was Tom Carey. That was the day he came to Tehachapi, he
3 showed up at our first council -- his first day, he showed up at
4 our council meeting.

5 Tom has been a breath fresh air. We in Tehachapi
6 have had relations with the prison, but nothing like since he
7 has been there. He's very community minded.

8 To tell you some of the projects we've had, he'd
9 created signs for our community. The last one was in tribute to
10 Bill Mantoff. Bill Mantoff was our Police Chief who was killed
11 in 1968 in the line of duty. His vocational woodshop spent
12 probably 2,000 hours creating two beautiful carved signs that we
13 are going to commemorate our police station to Bill Mantoff.

14 Some of the other projects that we're looking at,
15 we're going to try to restore an 1860 baggage car for a museum
16 that we're creating.

17 His auto body shop will be looking at restoring
18 some old vehicles for us.

19 I have personally been in the vocational shops,
20 and they're probably some of the best craftsmen in the country.
21 His upholstery shop is second to none. They've taken many
22 awards.

23 I'd just like to say that I've known a lot of the
24 officers at CCI and other personnel. Tom has instituted a
25 policy and a code of ethics which is second to none. In fact,
26 our city in the last couple of months has adopted a similar
27 policy of service.

28 And I just think that some of the things that Tom

1 has done and the contributions he's made to our community are
2 tremendous. I know I hired personally one of his inmates that
3 came out of his appliance repair. Very, very successful
4 programs.

5 And I think that Tom will be a tremendous asset.
6 I hope he stays and is confirmed, and will be in Tehachapi for
7 the next 20 years. I hope that I can stay and work with him
8 because we'll make Tehachapi one of the greatest places in the
9 State of California through his programs and through the things
10 that he has done for our community.

11 CHAIRMAN BURTON: Thank you.

12 Other witnesses in support? Witnesses in
13 opposition.

14 MS. BIRD: Senator Burton, Committee, I'm Cayenne
15 Bird of the UNION, and I'm a journalist.

16 This institution in terms of the number of
17 complaints from the families does not rank as low on the scale
18 as Calipatria, but it certainly does have a number of complaints
19 from both inmates and family.

20 And I understand that the words of an inmate is
21 not considered very credible in this particular arena; however,
22 in a court of law we frequently use it as jail house witness.
23 It's good enough to send people to prison in a court of law.

24 So, I do give some credibility to complaints
25 coming in from inmates.

26 The thread that I'm getting over and over again
27 is that is many inmates are afraid to speak out in this facility
28 much more than at others. There seems to be a great deal of

1 intimidation towards those who talk.

2 One of the ploys that is used to punish is wrong
3 gang affiliation. We have inmates who have been in the Hole for
4 some time, extended periods. They are accused of having a gang
5 affiliation which may be correct or incorrect, but it keeps them
6 in the Hole, and it's used punitively according to the
7 complaints that we have.

8 We also have the denial of emergency services in
9 emergency situations. This appears to be a statewide problem at
10 all prisons, that if there's a heart attack or something, there
11 is no one there except very lowly qualified technician of some
12 sort. And, of course, after you have a heart attack, there's a
13 24-hour period where an EKG will identify the problem. And 99
14 percent of time, these families are telling us that they are
15 never sent to see a cardiologist, even after something as
16 serious as a heart attack.

17 So, again, we're getting the same strong
18 complaints on the lack of medical services in emergencies. Like
19 a small cancer will develop, and it will turn into a major
20 cancer because of the lack of attention to these problems when
21 they happen.

22 I have several complaints on sexual harassment
23 where the inmates are being harassed by other inmates, lack of
24 consideration for safety issues, theft of personal property by
25 the guards. The guards bringing drugs into the prisons as a
26 black market sort of a thing; lots of complaints like that here
27 at Tehachapi. Fear and intimidation tactics; having their
28 property disturbed; things taken from their cells; stamps taken

1 out of the mail. A lot of those kind of complaints from
2 Tehachapi.

3 Several complaints about visitors being treated
4 in a very intimidating and cruel manner as a discouragement to
5 their visits.

6 Inability of the prison to provide a special diet
7 for diabetics, for example, or religious pork-free sort of
8 things. Lots of problems with -- I suppose you get into this
9 when you have many inmates, but lack of special diet. One
10 inmate says he eats apples and pretzels for dinner because he's
11 a vegetarian due to being a Seventh Day Adventist, and those
12 considerations are not given for religious freedoms.

13 Various rights violations, disrespectful
14 treatment of inmates by the guards and their families without
15 just cause.

16 But the big problem here at Tehachapi is sort of
17 a psychological torment, a feeling of dread. If they talk or
18 they file a complaint, the 602's being thrown in the trash.

19 In view of all the complaints that we have, we do
20 not, as a prisoner families organization, endorse the
21 appointment of Mr. Carey.

22 CHAIRMAN BURTON: Senator Lewis.

23 SENATOR LEWIS: I was just wondering what
24 percentage of those complaints have occurred on Mr. Carey's
25 watch, the ones that you're relating?

26 MS. BIRD: It's within the past year.

27 SENATOR LEWIS: They're all within the last year,
28 the ones you're referring to?

1 MS. BIRD: Right. I was just looking at the past
2 year in terms of complaints. That was my understanding.

3 SENATOR LEWIS: Some of the problems that you
4 mentioned is clearly criminal conduct if it's occurring, the
5 guards smuggling drugs for black market purposes.

6 MS. BIRD: Yes, it is.

7 SENATOR LEWIS: Have you or others referred these
8 to appropriate authorities for investigation?

9 MS. BIRD: Simon and Rand Martin are aware that
10 we have a number of complaints. They've been trying to help us
11 set up a vehicle whereby these complaints can be investigated.
12 I believe that we, with Ms. Sabelhaus here, now have a way that
13 we can do this.

14 We're only four months old.

15 SENATOR HUGHES: Mr. Burton, could you direct the
16 Budget Committees to look into the medical services things,
17 especially emergencies. I think it's cruel and inhuman to deny
18 somebody medical service if they're having a heart attack
19 because they're a bad guy. I mean some sort of
20 investigation.

21 CHAIRMAN BURTON: I think part of the problem is
22 budgetary.

23 I get an EKG, and it's not the doctor that gives
24 it to me. It's the nurse. They get finished, and they can call
25 the doctor to come in and read it.

26 But I think that point is well taken. Would you
27 like to respond.

28 MR. CAREY: Yes.

1 CHAIRMAN BURTON: Some of them are serious, some
2 of them are systematic, or systematic, but on drug smuggling, on
3 theft of property, on intimidation, things like that.

4 MR. CAREY: Yes.

5 Since I've been the Warden at CCI, theft of state
6 property, et cetera, has been brought to my attention, and those
7 individuals have been terminated.

8 I've not met you before. Many of the things I'm
9 hearing today I'm hearing for the first time. I personally go
10 to every visiting hall, every visiting room. We've got many
11 letters.

12 Every morning -- every Monday morning we review
13 how many visitors we had, how many inmates got visits, if we got
14 any complaints, if so, what were they. We deal with those.

15 The great majority of the time I'm pleased to
16 reads a letter from an inmate's family that has thanked our
17 staff for the way that they were treated during their visiting.

18 So, this hearing about visiting really kind of
19 goes to my heart because I've spent a lot of time there to make
20 sure that visiting is appropriate, because it's a great tool to
21 help calm the inmate and give him the strength to do those good
22 things during the week. So, we value visiting, and we make it a
23 very important part of our program.

24 CHAIRMAN BURTON: What kind of anonymity would an
25 inmate have if they lodged a complaint against a guard or some
26 staff person that they might be afraid of retaliation?

27 MR. CAREY: They have several avenues to do that.
28 First, the inmate may address a letter to me confidentially, and

1 I will be the one that opens that memo, it's confidential to me,
2 to have an interview, and I will conduct that interview. And
3 that happens.

4 CHAIRMAN BURTON: All right, I've got a beef. I
5 decide to write a letter. What do I do with that letter?

6 MR. CAREY: You write it to me, put it
7 confidential. You can put it in the mail; you can hand it to
8 the officer; you can give it to the sergeant.

9 CHAIRMAN BURTON: If I give it to the sergeant
10 and it's confidential to you, he probably figures I'm not giving
11 him a commendation.

12 MR. CAREY: Could be, could be. But that's the
13 process. Whether the sergeant, or lieutenant, or officer likes
14 it, the inmate writes a confidential --

15 CHAIRMAN BURTON: But as soon as I do that,
16 let's say that some person's hassling me, in my mind or in
17 reality. Then I have to put up, through the chain of the
18 command, the people who are hassling me, something to get to the
19 person who can make them stop hassling me.

20 MR. CAREY: No, there's other ways. That's one
21 way.

22 CHAIRMAN BURTON: What would be the most --

23 MR. CAREY: You've heard the Muslim Chaplain talk
24 today. They can whisper in his ear --

25 CHAIRMAN BURTON: Go to the Chaplain.

26 MR. CAREY: -- and he'll come to me. They can
27 tell an instructor, and the instructor will come and talk to me.

28 CHAIRMAN BURTON: The best thing would probably

1 be a chaplain because they're under this seal of the
2 confessional, more or less.

3 MR. CAREY: The other avenue which I find very
4 useful is, I also walk all the watches. Inmates may approach me
5 privately, and they may talk to me. In fact, when I go into the
6 dormitory settings, I tell the staff, stay at that end, and I go
7 to the other end. The inmates can come, and they can bring
8 their complaints to me.

9 Now, whether they're true --

10 CHAIRMAN BURTON: I understand.

11 MR. CAREY: So, they do have an avenue.

12 CHAIRMAN BURTON: Thank you.

13 Any other questions, Members of the Committee?

14 Senator Baca.

15 SENATOR BACA: One final question.

16 What policy changes would you recommend, if any,
17 to address any problems at your institution, since I've noticed
18 you have a broad range of experience from the past to the
19 present, if any? What policy changes would you recommend, if
20 any?

21 MR. CAREY: Policy changes, I think we need to
22 look at our business practices. I think within the Department
23 of Corrections, it has grown so large that we have a lot of
24 duplicity.

25 CHAIRMAN BURTON: Duplication or duplicity?

26 MR. CAREY: Both, okay.

27 [Laughter.]

28 CHAIRMAN BURTON: Witness in opposition.

1 MR. CAREY: And I think we need to constantly
2 monitor how many folks or how many organizations are looking at
3 the same situation.

4 We'll have the Institutions Division, for
5 example, give us direction. We'll have Mental Health giving us
6 directions. Administration gives us some direction, and you
7 have to respond to all of those without a clear policy.

8 So, I think it's very important that we
9 constantly look at our business practices.

10 SENATOR BACA: Thank you.

11 SENATOR LEWIS: Move confirmation.

12 CHAIRMAN BURTON: Moved by Senator Lewis. Call
13 the roll.

14 SECRETARY WEBB: Senator Burton.

15 CHAIRMAN BURTON: Aye.

16 SECRETARY WEBB: Burton Aye. Senator Baca.

17 SENATOR BACA: Aye.

18 SECRETARY WEBB: Baca Aye. Senator Hughes.

19 SENATOR HUGHES: Aye.

20 SECRETARY WEBB: Hughes Aye. Senator Knight.

21 SENATOR KNIGHT: Aye.

22 SECRETARY WEBB: Knight Aye. Senator Lewis.

23 SENATOR LEWIS: Aye.

24 SECRETARY WEBB: Lewis Aye. Five to zero.

25 CHAIRMAN BURTON: Congratulations to you.

26 MR. CAREY: Thank you.

27 CHAIRMAN BURTON: Warden Small.

28 MR. SMALL: Good morning, Senators.

1 I'd like to start out by recognizing my mother,
2 Dorthee Small, and my significant other, Bernadette Boisvert.

3 My name is Larry Small, and I am presently the
4 Warden at Calipatria State Prison in Imperial County. I began
5 my career 27 years ago this coming Sunday as a correctional
6 officer, got promoted through the ranks as a sergeant,
7 lieutenant, counselor, investigator, training officer, and
8 representative in the design and construction of approximately
9 \$2.4 billion worth of new prisons.

10 I've also served as a program administrator,
11 associate warden, chief deputy warden, acting warden, and since
12 February of 1998, warden.

13 Besides Chino and Central Office, I have served
14 at Tehachapi, Soledad, Corcoran, Centinela, and now Calipatria.
15 Calipatria State Prison is a maximum security prison designed to
16 house 2,208 inmates. It currently houses more than 4,100
17 inmates.

18 While the average term served by an inmate in a
19 California prison is 23 months, it is important to realize that
20 more than 1,400 inmates at Calipatria State Prison are serving
21 commitments ranging from 50 years to life without possibility of
22 parole.

23 My management philosophy consists of a
24 people-oriented pragmatism. I believe it is incumbent upon me
25 and my staff to be pro-active in our identification of potential
26 problems and finding alternatives to resolving those problems.

27 I believe that maintaining the status quo is
28 tantamount to stagnation, and that we must be ever searching to

1 improve. I believe in practice participatory management and
2 actively seek out the best counsel and advice of my staff. My
3 decisions are guided by a commitment to excellence, desire to
4 constantly improve, and a conscience driven by my oath of
5 office.

6 With your approval and concurrence, I would ask
7 to be allowed to continue toward maintaining and improving the
8 safety of the public, staff, and inmates, the daily functioning
9 of a prison, the responsiveness and accountability of management
10 and supervisors, as well as the opportunities for inmates to
11 improve their potential for success upon release.

12 I thank you for your time here today for allowing
13 me to participate in this process of confirmation. I will
14 gladly answer any questions that the Chair, Vice Chair, and
15 Members might have at this time.

16 SENATOR LEWIS: Thank you, Warden. Why don't you
17 go ahead and comment briefly on both your medical care that's
18 offered at your facility, and also what kind of a program you
19 have per release training?

20 MR. SMALL: Medical care at Calipatria State
21 Prison, there are approximately 60 staff assigned to the medical
22 section of the prison. There is a Chief Medical Officer, and he
23 has a hiring authority. So, he is equal to me in responsibility
24 and position.

25 We have 6 physicians, 4 dentists, and various
26 nurses and medical technical assistants and other technicians,
27 radiologist, laboratory technician, those kind of things. The
28 majority of our medical work, if it is of a serious nature, is

1 in the outside community. We have a contract with a hospital in
2 San Diego, and we transport inmates there on a regular basis.
3 We have referrals for contract physicians, be they cardiologists
4 or other kinds of medical practice.

5 For the issue of heart attacks, for example, we
6 have a number of inmates, I believe, over the last two weeks
7 I've had at least three inmates who have been transported almost
8 in the middle of the night by ambulance and staff to the local
9 hospital in Brawley. So, we do respond to emergencies in that
10 way.

11 SENATOR LEWIS: You said you have 6 physicians?

12 MR. SMALL: Six physicians.

13 SENATOR LEWIS: Not 6 full-time physicians.

14 MR. SMALL: Yes, sir. The staffing is 6
15 full-time physicians.

16 SENATOR LEWIS: That's interesting. I was
17 talking to the medical director where my family gets our
18 treatment in Orange County. He told me that at his practice,
19 that the average doctor has 2100 patients.

20 You would seem to be well above that ratio. I
21 can see the opposition witness shaking her head.

22 Why don't you also fill us in about your release
23 training program.

24 MR. SMALL: The release training program at
25 Calipatria, there are several different avenues that we have
26 embarked on. Over the last six months, working with my boss,
27 done a few things a little differently and tried a couple of
28 other programs and gotten some assistance from Central Office.

1 We have a life skills recovery program that we
2 initiated about six months ago. It's essentially a drug
3 treatment pilot. It incorporates a module called "Life Without
4 a Crutch," which is a denial buster education module, and
5 another one called "Life on the Outside," which is an education
6 track incorporating pre-release classes.

7 So far, in the last six months, I've had 31
8 inmates graduate through that program, and I currently have 14
9 that are enrolled in it.

10 We also have a parenting class that's been very
11 successful. I wish I could take credit for it, but it was
12 functioning when I got there in February. But I and my staff
13 have put our support behind it. About two-and-a-half or three
14 weeks ago, I went into the facility and into the classroom where
15 the 28 inmates who had completed the parenting class were
16 graduated and presented each of the inmates with a certificate,
17 and congratulated them, and asked them what they had learned in
18 the process. It was a very positive kind of thing for those
19 inmates.

20 The other kinds of things that we're working on,
21 we've always had a long term or a long time Narcotics Anonymous
22 and Alcoholics Anonymous program. We currently have 160 inmates
23 who are weekly participants in our Narcotics Anonymous program,
24 and 145 of that are in the AA. Eight of those inmates in the NA
25 program have actually been there more than five years, so long
26 term. There are 14 staff sponsors in NA and the life skills
27 recovery program that we're working on, and also 20 outside
28 volunteers that are very dedicated to the program.

1 SENATOR LEWIS: Just out of curiosity, you said
2 you had 150 that were in the drug?

3 MR. SMALL: One hundred sixty in Narcotics
4 Anonymous and 145 in Alcoholics Anonymous.

5 SENATOR LEWIS: So about 300 jointly. When you
6 go through the interview process from that, have you gleaned
7 what percentage of your inmates have alcoholic or drug problems,
8 and what percentage of those are involved in these?

9 MR. SMALL: Systemically, departmentally, 27
10 percent of the inmates are in some drug offense, and 42 percent
11 are in for violent crime.

12 Now, there's a carry over there. I think our
13 Office of Substance Abuse statistically says that somewhere
14 between 60 and 70 percent of the inmates have some kind of drug
15 or addiction problem. It's a high number.

16 SENATOR LEWIS: Sixty percent, and those were
17 system wide?

18 MR. SMALL: Systemically, yes.

19 Now one of the things I did do is, recently the
20 Legislature passed and the Governor signed legislation
21 increasing the number of drug treatment beds and made some
22 moneys available. The day after the bill was signed, I called
23 Central Office and tried to put our name on the head of the list
24 for 200 beds for drug treatment. I'm keeping my fingers
25 crossed, and since Mr. Terhune's here and my boss, I'm hoping it
26 works.

27 SENATOR LEWIS: Questions from Members of the
28 Committee, Senator Hughes.

1 SENATOR HUGHES: You've been there a year?

2 MR. SMALL: I've been there since February, yes,
3 ma'am.

4 SENATOR HUGHES: What is your greatest
5 frustration?

6 MR. SMALL: The greatest frustration is
7 watching -- and I'll try not to take a lot of time -- the
8 greatest frustration is over last 27 years, seeing the system go
9 from 18,000 inmates 159,000 inmates, the staffing grow from
10 8,000 to 45,000, and us go from 12 to 33 prisons.

11 The gang influence in the prisons and outside the
12 prisons, I think, are probably my greatest frustration.

13 SENATOR HUGHES: Is it increasing?

14 MR. SMALL: I believe it is. Now, there's a
15 differential between prison gangs and street gangs. It used to
16 be generally, in the earlier days, that it was the prison gangs
17 that we had to worry about.

18 And if you look back at the history of the
19 Department, in the '70s, we had over 25 percent of the inmate
20 population locked up. They were either in Security Housing
21 Unit, management control, or protective custody.

22 Our statistics now is, we're down to only two
23 percent of the population that are in a lock-up kind of
24 situation, and the numbers are dramatically down because we've
25 essentially taken all the identified gang members and placed
26 them in one of two locations to remove them from the general
27 population so that your general population can operate. And
28 that was a conscious decision.

1 The problem I am seeing is that the street gang
2 influence in the general population is having a very detrimental
3 effect.

4 SENATOR HUGHES: How? They're not incarcerated.

5 MR. SMALL: But the incarcerated inmates who were
6 members of street gangs.

7 SENATOR HUGHES: So, they come there with a
8 certain status?

9 MR. SMALL: They come with their status; they
10 come there with an agenda.

11 Since we've removed the majority of the Mexican
12 Mafia and Nuestra Familia, and members and associates, to two
13 isolated prisons, the street gang members are coming in now,
14 trying to determine who's going to run the drugs, who's going
15 to, you know, operate the yards.

16 SENATOR HUGHES: Then, when it comes time when
17 you have to put them in a cell with someone else, do you
18 separate them so that you distribute, that you don't get a
19 couple of them together so they can plan the overthrow of the
20 world?

21 MR. SMALL: All I can say is, we try. And the
22 other thing I can say is that I know systemically, the
23 Department's looking at how to best manage that problem, because
24 there's a problem.

25 SENATOR HUGHES: How do you manage it? You get
26 someone who is from a known street gang, someone who's been
27 incarcerated several times, and then you have to place them in a
28 cell. What cell, what kind of other inmate do you place them

1 with? Someone who is brand-new, or someone else who is seasoned
2 like this person? Do you go through a screening device?

3 Since you're not as overcrowded as the other two
4 institutions I would imagine you have a little more leeway.

5 MR. SMALL: Not much.

6 SENATOR HUGHES: Okay.

7 MR. SMALL: I don't have gymnasiums because ours
8 were built with open air gyms, so that's the only reason my
9 population is a bit down.

10 SENATOR HUGHES: Are there any times that you are
11 aware of that inmates are punished by the denial of medical
12 services?

13 MR. SMALL: No, Senator, not to my knowledge. If
14 I were to become aware of that, I would immediately do
15 something, either a category one investigation or a category two
16 investigation from outside. I'd obviously be talking to the
17 Chief Medical Officer. I'd be reviewing the information in the
18 file.

19 SENATOR HUGHES: When an inmate comes to you, you
20 have the complete physical record of that inmate? I mean, do
21 you know about their physical condition?

22 MR. SMALL: When I'm walking the yards, as an
23 example, if an issue comes up, then I can get the medical file,
24 and I speak to a doctor.

25 SENATOR HUGHES: No, that's not what I mean. Let
26 me get to my point, and I meant to ask the two other wardens
27 this question.

28 If an inmate comes in, do you know whether they

1 are a person who has AIDS or not? And if they are someone with
2 AIDS, are they segregated in your institution?

3 MR. SMALL: The medical department knows. When
4 an inmate comes to Calipatria State Prison, they come with their
5 central file, which is the criminal file. They also come with a
6 medical file. That goes to medical. It's screened before the
7 inmate's placed in the cell.

8 SENATOR HUGHES: You do not see it?

9 MR. SMALL: I do not personally see it, no, I do
10 not.

11 SENATOR HUGHES: So then, you don't segregate
12 AIDS patients.

13 MR. SMALL: No. We would generally be placing an
14 AIDS patient in the Infirmary when they are deteriorating.

15 SENATOR HUGHES: Right, when they're far
16 advanced.

17 MR. SMALL: Right, and then we'd make
18 arrangements to transfer him to one of the hospices.

19 CHAIRMAN BURTON: I was just wondering, because
20 now there are some terrific new medicines for HIV positive
21 people that literally, if not stemmed the disease, stemmed the
22 growth and even a little bit of recovery.

23 I'm just wondering, and we may be asking the
24 wrong person the question, whether those medicines are available
25 at the prisons?

26 MR. SMALL: My understanding is yes, they are.

27 CHAIRMAN BURTON: All the new drugs?

28 MR. SMALL: The cocktails and the rest, yes.

1 CHAIRMAN BURTON: Thank you.

2 SENATOR HUGHES: What about religious clerics?

3 The previous warden said that he would like to see more
4 opportunities for clerics to come into the prisons to serve the
5 prisoners.

6 Do you have a relationship, do you have a good
7 clerical force that comes there and works with the prisoners?

8 MR. SMALL: Yes, I have a Catholic priest on
9 staff. I also have a Protestant minister on staff. I have a
10 part-time Imman. I have a Native American spiritual leader.

11 SENATOR HUGHES: Do you have a rabbi?

12 MR. SMALL: I think we're working on getting a
13 rabbi at this point, yes. We also have a number of religious
14 volunteers, quite a number.

15 SENATOR HUGHES: Thank you.

16 CHAIRMAN BURTON: Senator Baca.

17 SENATOR BACA: Thank you, Senator.

18 Warden, you've indicated earlier that you've been
19 there since February. What is your recommendation as you
20 address some of the overcrowding, and it seems to almost be at
21 the capacity -- almost I state -- of 200 percent capacity? What
22 do you currently recommend to deal and cope with the problem?

23 MR. SMALL: The Director is back there.

24 For the last several years, I worked in Plan and
25 Construction for eight years.

26 SENATOR BACA: You're fresh. You're new. You
27 can come in with these ideas now.

28 MR. SMALL: I understand.

1 I think there are number of options for
2 incarceration of lower-end felons. I think, number one, that
3 needs to be pursued. I know that the Department is pursuing
4 looking at different avenues, some of it being as we have
5 contracted community beds, those kinds of things.

6 But I think there are lot of options to look at.
7 I think we need to look at how those options work, who funds
8 them, because that obviously becomes one of the major issues,
9 how to reduce the prison population.

10 SENATOR BACA: Options like what?

11 MR. SMALL: Well, we used to have a probation
12 subsidy program back in the early '70s. That essentially went
13 away to a great extent.

14 CHAIRMAN BURTON: Do you want to define that
15 program.

16 MR. SMALL: I'm sorry?

17 CHAIRMAN BURTON: Define the program that you had
18 that went away.

19 MR. SMALL: How it used to be? Essentially,
20 rather than sentencing an inmate to a state prison, he'd be
21 sentenced to the Probation Department, and the local county and
22 the state would subsidize and pay the county for watching that
23 inmate.

24 I'm not sure. If I had all the answers, I think
25 I'd quit the Department and write a book and become a
26 consultant.

27 The problem is that there are a number of
28 problems, and they don't necessarily all interrelate, but they

1 all impact each other.

2 So, there was Blue Ribbon Commission that
3 generated a report that has several recommendations, and I don't
4 know where those recommendations are in the process now.

5 With the new administration, new Legislature, I'm
6 looking forward to where we end up going. I'm an optimist, and
7 I'm hoping that we can find ways to improve the system. Looking
8 forward to Mr. Presley taking over Agency and see where
9 Mr. Presley takes us.

10 SENATOR BACA: Earlier, too, Mr. Warden, you
11 indicated some of the problems that exist pertaining to gang
12 problems. How is your institution working to reduce gang
13 tension in your population?

14 MR. SMALL: Gang violence to a great extent,
15 unfortunately, also relates to drug involvement and drug
16 trafficking, and those kinds of things.

17 When I got there in February, in working with my
18 boss, I have a drug interdiction team that I've initiated. In
19 the last six years at Calipatria State Prison, I believe the
20 number is about 43 drug trafficking felonies have been referred
21 to the district attorney. In the last nine months, I think
22 partially because of this team I put together, the referral
23 rate, we've done 39 referrals in nine months.

24 So, we're starting to impact, I think, the drugs
25 coming in, and that's having an effect on reducing some of the
26 violence over the inmates trying to fight over drugs.

27 SENATOR BACA: So you're saying that they're both
28 tied together, drugs and gangs.

1 MR. SMALL: Yes, sir.

2 SENATOR BACA: The other question that I have is
3 pertaining to education. What specific programs do you have to
4 improve the skills as we try to prepare them for jobs in the
5 future as well, or improve their reading skills?

6 MR. SMALL: Education programs, we have actually
7 quite a few. I don't want to talk off the top of my head. We
8 have GED, literacy, mathematics, parenting, pre-GED and writing.
9 We have 26 vocational programs, 18 academic instructors of adult
10 basic education, levels one, two, and three. English as a
11 second language, we have literacy.

12 I believe it was last year or the year before, 12
13 or 14 prisons got literacy pilots initiated where there were
14 computers placed in each housing unit, and where inmates became
15 tutors in that process.

16 Calipatria was not fortunate enough to become one
17 of those, and I'm pursuing doing that, because I've seen that,
18 number one, motivate inmates to improve their educational level,
19 and change from illiterate to literate. I've seen the program
20 work very well. And also the tutors and the people in the
21 program are very pro-active, so I'm hoping to get that at
22 Calipatria in the near future.

23 SENATOR BACA: The final question to be
24 consistent, and this is a question I've asked the other two
25 wardens as well.

26 The law has changed in the amount of good time
27 credits that inmates may earn. The law now gives fewer credits
28 than in the past, so that inmates don't get out too early.

1 Have you noticed any difference in the prison
2 conduct as a result of the change in the law? If so, is the
3 change positive or negative during the time that you've been
4 there since February at your institution?

5 MR. SMALL: I think my experience has been a
6 little different. The reaction I've seen has been generally on
7 the negative side. If the inmates aren't earning the credit,
8 they're not as willing to actively want to participate in the
9 program. So, yes, I've seen the negative side on that side and
10 in the prison itself.

11 I don't know how that relates to the community
12 and that person not being out any sooner.

13 SENATOR BACA: And the final question, since
14 you're relatively new, what policy changes would you recommend,
15 if any, to address any of the problems at your institution?

16 MR. SMALL: Actually, I've initiated quite a few
17 policy changes or recommended quite a few policy changes, and
18 I'm in the process of working with my boss to try and get those
19 implemented.

20 SENATOR BACA: Give me an example.

21 MR. SMALL: Actually, I'm piggy-backing on
22 Senator Knight.

23 As I mentioned, Calipatria State Prison has 1,400
24 inmates who are serving terms from 50 years to life without
25 possibility of parole. So, it's approximately one-third of my
26 population.

27 The discussion that I think needs to occur is,
28 how do you use the limited resources that the Department has,

1 and how do you distribute those resources.

2 We've been talking here about people releasing
3 back to society better, and I believe that that is part of our
4 job, is to try and do that. With limited resources, however, I
5 don't know that the resources stretch enough to take in all
6 159,000 inmates.

7 If I've got one-third of my population that will
8 never be out of prison, should we be spending those resources on
9 the education program, the vocational training, on that
10 population or not. It's a discussion, I think, that needs to
11 occur. Whatever the answer is, it's going to be a different
12 place, but I think the question needs to be raised. It's one of
13 the things I'm planning on raising, and my staff are working on
14 raising that.

15 SENATOR BACA: Thank you.

16 CHAIRMAN BURTON: Senator Knight.

17 SENATOR KNIGHT: Thank you, Mr. Chairman.

18 Warden Small, you indicated that you have a few
19 lifers that you may have to evaluate whether they would accept
20 training or not. I would suggest that age is probably the best
21 rehabilitator that you have.

22 MR. SMALL: I would agree.

23 SENATOR KNIGHT: The longer they're there, the
24 older they get, the more they understand what they have to do,
25 and the less likely they are to come back; is that right.

26 CHAIRMAN BURTON: They're not getting out if it's
27 50 to life.

28 SENATOR KNIGHT: Maybe, you know, if they go in

1 at 20, they can get out, John.

2 CHAIRMAN BURTON: With their walkers.

3 SENATOR KNIGHT: Whatever. They don't commit too
4 many crimes after that.

5 The question was asked about your greatest
6 frustration level. As a result of the investigations, hearings,
7 et cetera, associated with Corcoran Prison, the results were
8 rather devastating, I think, in terms of the Director and
9 Warden, and they were fined punitive damages for lack of policy;
10 is that correct?

11 MR. SMALL: I'm not sure.

12 SENATOR KNIGHT: Insufficient policy. Does that
13 affect you at all? I've heard that it affects the number of
14 wardens waiting, prospective wardens awaiting assignment. There
15 aren't that many anymore. It's not as good a job as it is used
16 to be, maybe.

17 MR. SMALL: It obviously raises my level of
18 concern. The 27 years that I've been in the Department, I've
19 always done it from the standpoint that I believe in honesty, I
20 believe in integrity, I will do -- I personally do what I
21 believe is right, the right thing to do for the right reasons.

22 So with that note, no, I'm not worried. I
23 believe in the justice system. And if I get sued, which I do, I
24 believe that in the end it'll come out.

25 SENATOR KNIGHT: But when they are awarded
26 damages based on insufficient policy, it's rather nebulous as
27 far as --

28 MR. SMALL: Yes, it is.

1 SENATOR KNIGHT: -- your ability to institute
2 policy or changes within the system.

3 MR. SMALL: It is relatively limited. My ability
4 to implement or to initiate a policy is very limited.

5 SENATOR KNIGHT: They may hang you with it,
6 though.

7 MR. SMALL: Yes, they may.

8 CHAIRMAN BURTON: You talked about drug
9 charges. Was it friends, families, employees? What was the mix
10 on the people that you referred to the D.A. for bringing drugs
11 into the prison?

12 MR. SMALL: Mostly through visiting. Also
13 through mail and quarterly packages as an example.

14 CHAIRMAN BURTON: Any employees?

15 MR. SMALL: I believe there was one employee, if
16 I recall correctly.

17 CHAIRMAN BURTON: Do you have any program to
18 monitor what is allegedly an employee problem, smuggling drugs
19 in?

20 MR. SMALL: We have training on identification of
21 people under influence, those kinds of things, and recently the
22 contract allows for some random testing of peace officers.

23 CHAIRMAN BURTON: I've got a copy of your
24 Visitors Rules and Regulations.

25 MR. SMALL: Yes, Senator.

26 CHAIRMAN BURTON: I think The print's kind of
27 small, for what that's worth. I don't think it costs that much
28 to add a couple of pages. And it really is kind of in a lot of

1 bureaucratic-ese.

2 I would just think that, the rules are simple,
3 the explanation is not. I think it might be helpful to the
4 families, because I assume that some of the families of some of
5 the prisoners are not necessarily college graduates. You just
6 might want to consider putting it in plainer language.

7 I just have a couple of questions. Okay, attire
8 must be conservative to enhance the family atmosphere. I guess
9 that's in the eye of the beholder. So, some guard that woke up
10 on the wrong side of the bed can say, well, you're not
11 conservatively attired.

12 MR. SMALL: The officer can make a judgement. It
13 would be reviewed generally a sergeant or a lieutenant, at the
14 very least, before a visitor is turned away.

15 CHAIRMAN BURTON: Conservatively attired, you
16 could have --

17 MR. SMALL: I think there's some detail about --

18 CHAIRMAN BURTON: -- a tie. There's something
19 about fully clothed, and shoes make sense. Length of shorts, so
20 I assume they're in shorts. Buttons and zippers should be
21 fastened; no see-through clothing; no open weave sweaters
22 without an undershirt.

23 You know, I would think that, I guess, if
24 somebody wanted to, you could deny a lot of people in room who
25 are not necessarily conservatively attired. I'm looking at a
26 tie in the back there.

27 More, I think it would be important to make it
28 less bureaucratic and simpler so they can understand.

1 MR. SMALL: Essentially what I was trying to do
2 was take the California Code of Regulations, which was about
3 this size, and get it down.

4 CHAIRMAN BURTON: I think that's good. I think
5 it could be even --

6 MR. SMALL: I think you have that on the visitor
7 comment. There's a smaller one also.

8 CHAIRMAN BURTON: -- it could even be better.
9 Witnesses in support.

10 MR. CORCORAN: Mr. Chairman, Committee Members,
11 my name is Lance Corcoran, just like the infamous prison in
12 central California, substation of the FBI.

13 I'm the Vice President of the California
14 Correctional Peace Officers Association, and my constituency is
15 the 22,000 rank and file in the Department of Corrections.

16 I just want to speak briefly in support, which is
17 unique for CCPOA, I think. To my knowledge, this is the first
18 time we have ever supported any warden candidates. Generally it
19 doesn't go well after that, for some reason, I don't know why.
20 But maybe it's a new day.

21 Three very good candidates today, and I think
22 Larry is one of the best.

23 One thing I know about Mr. Small is that he does
24 care about staff concerns and inmate concerns. He does walk his
25 facilities.

26 I think if you go to his facilities, what you'll
27 see is a very clean environment. He has a unique way of working
28 his budget so that his prisons are among the cleanest and most

1 attractive in the state.

2 A few years ago, I stood in the 125 degree heat
3 outside Calipatria with a picket sign. Today I think the only
4 time our staff would picket at that particular institution to is
5 if you tried to remove Mr. Small. And I hope to never have to
6 hold a picket sign in front of Calipatria again, I'll tell you
7 that.

8 A few things that I'd like to comment on. I know
9 that this is for the record. This is not specific to Mr.
10 Small's confirmation. Just couple of things in defense of my
11 profession.

12 I have been a correctional officer for 13 years.
13 I have walked pill line, after pill line, after pill line over
14 to the medical facility. My experience as a correctional
15 officer is that if an inmate has the sniffles, that inmate is
16 going to be seen by a doctor, or an RN, or an LVN.

17 Generally, all of us have complaints about our
18 health care. HMO reform is a big issue. I don't know how it is
19 for a Senator, but I know as Vice President of prison guards, if
20 I call my doctor's office today, it might be a few weeks before
21 I get in to see a doctor. Now, if I have an emergency,
22 obviously I can go to an emergency room. Those options are
23 available to inmates as well.

24 As far as what they're given, I have seen
25 everything from, if you are depressed, we give you medication to
26 make you feel better. If you're a little too active, we give
27 you medication to calm you down. If you have trouble gaining
28 weight, we'll help you with that. As a matter of fact, to my

1 knowledge, the only thing that we don't issue in the Department
2 of Corrections is sunscreen and chapstick. At Calipatria, we may
3 give sunscreen out.

4 We also have a prison system of 159,000 inmates,
5 of which 42 percent are convicted of violent felonies. That's
6 68,000 violent felons in our prison system. That number in
7 itself is larger than every population of every prison system in
8 the nation, except for the feds, New York, and Texas.

9 We do that with the leaness staffing ratios in
10 the nation, and we also operate a prison system that is in the
11 top ten as far as over-all mortality rates.

12 I think that it's a testament to Mr. Small and to
13 his rank and file staff that California is doing a good job
14 managing its prisons, not a perfect job.

15 They're prisons. They're never going to be
16 perfect. I don't think you're going to find anyone who says
17 they want to be there, staff included.

18 Thank you.

19 CHAIRMAN BURTON: Other witnesses in support
20 briefly.

21 MR. MABRY: Chairman Burton and Committee
22 Members, again, my name is Roy Mabry, President of the
23 Association of Black Correctional Workers.

24 Lance Corcoran must have had my notes, because
25 all the things he said, I was going to save the best comments
26 for last.

27 With that, just on behalf of our general
28 membership, we completely support Mr. Small for confirmation as

1 Warden.

2 CHAIRMAN BURTON: Thank you. Next.

3 MR. SEARCY: Thank you again. Frank R. Searcy,
4 President of the Chicano Correctional Workers Association.

5 This Association heartily and fully endorses Mr.
6 Small for Warden at Calipatria State Prison.

7 I'd like to address real briefly some issues that
8 have been addressed and probably will be addressed later on.

9 Any prison employee, and especially any
10 administrator, knows that one of the biggest causes for a
11 prison, shall we say, blowup -- in other words, cause a riot --
12 is three main factors. One is the food, the mail, and the
13 visiting.

14 If you would go to any restaurant, you would find
15 some faults in there, whether it be the service or the
16 preparation of your order.

17 If you go to any medical facility, you would find
18 some question there on the service.

19 And we all experience at times some question with
20 our Postal Service.

21 So in the prison system, it's the same thing.
22 But again, because those are the three ingredients, shall we
23 say, that can cause an institution to blow up, those are the
24 things that are really, really looked at by any and all
25 administrators in an institution. The food may not be the best,
26 may not be from home, but it's going to be appropriate.

27 The medical facilities, yes it may have a
28 question there. But again, we have to understand that all

1 institutions attempt to provide the best. And it has been
2 proven here, it has been shown that transportation has been
3 provided to emergencies. No administrator of an institution is
4 going to deny medical assistance.

5 The postal, yes, there may be some problem with
6 that. However, when it was addressed about the postal
7 situation, I wonder, could it have been that maybe there was
8 some contraband that was removed from the mail? Could it have
9 been that there was some unauthorized material in there? That
10 wasn't addressed. Could it be that?

11 A few months ago, I had occasion visit Calipatria
12 State Prison. I can assure you that after four years and nine
13 months of military service in the United States Air Force, yes,
14 it taught me, and I am probably a perfectionist in cleanliness.
15 When I visited Calipatria State Prison, I was very, very
16 impressed with the landscaping and the cleanness of the
17 institution.

18 Myself and my assistant, we walked into the
19 institution on the grounds, we walked into the yards, and we
20 talked with the employees. We talked with the inmates. And the
21 reason for our visit was to see and get a feel of where that
22 institution was with the inmate body and the staff.

23 The response that we received from both bodies
24 was positive. Yes, there may have been a complaint here or
25 there, which there is everywhere, but over all the responses
26 were very, very positive. They thought very highly of
27 Mr. Small.

28 So, it is obvious That, again, Mr. Small may not

1 be perfect, but who is. It's obvious that he is attempting to
2 administer a prison, and it's obvious that he is doing a good
3 job.

4 Therefore, we encourage you to vote for
5 confirmation of Mr. Small as Warden of Calipatria State Prison.

6 Thank you.

7 SENATOR LEWIS: Thank you.

8 Any additional witnesses in support? And at this
9 time of the day, I would suggest brevity. Otherwise, we might
10 lose our quorum.

11 MR. MITCHELL: My name is John Mitchell. I'm the
12 Food Manager at Calipatria State Prison. I represent the
13 Calipatria State Prison Employees Association.

14 I had lots of things I wanted to discuss, so I'm
15 just going to put that aside.

16 Representing the Employees Association, we look
17 forward to Mr. Small being confirmed. I recognize Mr. Small as
18 a compassionate man dealing with his employees. I know that
19 compassion also carries over to the inmate population.

20 Mr. Small would be an excellent warden, and we
21 look forward to many years together.

22 Thank you.

23 SENATOR LEWIS: Thank you very much. Next.

24 All right, let's hear from opposition. Come
25 forward, please.

26 MS. BIRD: Cayenne Bird with the UNION and
27 journalist.

28 Calipatria is a hell pit. We have so many

1 complaints from here, and the families do not know one another,
2 so there must be some substance to it.

3 There are not six full-time physicians. There is
4 usually an assistant, a technical assistant in the medical
5 area. We have documented cases with the Orange County Register,
6 senior editor there Allen Bach, of an angina attack which
7 occurred twice to the same individual, which happens to be my
8 son. And he was a law enforcement officer.

9 He is a political prisoner because of my work as
10 a political and criminal law journalist who strongly opposed
11 Lungren successfully, thank God, but my son has paid a very high
12 price for it. And Warden Small does not really probably realize
13 how I have documented the goings on in his prison, which is
14 where my son has been for the last couple of years until
15 yesterday, when he was lowered to Level Three and shipped out
16 suddenly, finding out that I was going to be here today. So,
17 just to give you a little insight in honesty about, you know,
18 this conflict that we have.

19 But he had two angina attacks. On both
20 occasions, he was given a slip by the technical assistant to
21 come back in two weeks. And as I was saying earlier, an EKG
22 could have identified the problem if it had been performed
23 within 24 hours.

24 The physician that is there, my son is a
25 paramedic. His career goal is to be a medical doctor, and now
26 his life is ruined by the injustice system, but he knows when
27 he's having an attack.

28 SENATOR KNIGHT: Question.

1 I don't think that we have political prisoners;
2 do we?

3 MS. BIRD: We have a lot of innocent people that
4 have been taken up in the sweep in the drug war. The system is
5 corrupt and dysfunctional from arrest through parole.

6 I've seen your materials, and we don't agree with
7 you, Senator Knight. We're going to be giving you a lot of hard
8 time coming up.

9 I'm sorry. I'm a mom, and after all this
10 inhumanity and skewed crime statistics, crime is not down. If
11 you call the district attorneys and the juvenile hall people,
12 they will tell you that crime is up. We know the variables.
13 We're out there; we're angry; we're upset.

14 So, I'll try to control my temper. I do have
15 that Irish streak here.

16 SENATOR LEWIS: Please remember, this is an
17 individual confirmation.

18 MR. BIRD: Yes, I do.

19 But we have -- one of the complaints here,
20 that -- two eye witnesses that two guards murdered Eddie Katell
21 at Calipatria. The death was ruled an asphyxiation, but the
22 autopsy report, which I personally read, and interviewed the
23 family, indicated that had his body was covered from head to toe
24 with cuts and bruises, and that he was -- his ribs were broken.

25 Apparently he had tried to swallow some
26 contraband. His mother was told that if she complained about
27 this publicly to the press, that she would be accused of giving
28 him the contraband. She's hysterical. Months have gone by, and

1 she's still unable to get the personal property.

2 Another inmate, because of the weather down there
3 being 100 degrees, and the guards being untrained in how to
4 resuscitate someone who has been -- come down with heat
5 exhaustion. Died unnecessarily out in the heat.

6 My son, a paramedic, tried to revive him. He
7 died. And there was no medical assistance around. And that --
8 we have a complaint from that mother which we'll be filing with
9 Ms. Sabelhaus.

10 We have a former employee, Linda Goo,
11 consistently denied seeing an inmate, I believe it's her
12 husband. He was employee of Calipatria. Turned away without
13 just cause. Lots of this going on. Mail blocked.

14 Denial of visitors, strong thread there. Lots of
15 complaints along this line. One lesbian was turned away because
16 she didn't wear a bra; she's never worn bra. And she came into
17 the office in tears that she was not allowed to visit an inmate,
18 that she had traveled for six hours, and she felt like her
19 rights were being violated.

20 It's just an attitude of intimidation. Reading
21 materials and legal materials are denied on Cell Block A, which
22 is illegal. Inmates are psychologically tortured with
23 announcements on the loud speaker there. These happen between 6
24 and 6:30.

25 They're told to go outside when it's 50 degrees
26 outside, still pitch dark. They are given thin tee-shirt and
27 boxer shorts, and shower thongs to go out in the dark;
28 otherwise, they don't get a chance for the rest of the day, so

1 the majority of the inmates on Cell Block A are not getting
2 physical exercise. They are not allowed to go outside unless
3 they go during that time.

4 It's just -- it's terrible. They're caged
5 animals. Put people in isolation for protective purposes. And
6 they allow -- there's a lot of racism, but guess what? We have
7 a membership of 80 percent Hispanic, Black, American Indian.
8 It's usually the Blacks, and the Hispanics, and the American
9 Indians talking about the white guards. Not at this prison. We
10 have an administration of minority administrators that are just
11 really giving the white guys a hard time, which is very unusual,
12 but this is going on.

13 And the Associate Warden there, Rose Huston,
14 brought in file clerk from another prison, which I understand is
15 unacceptable. His name is Ronny. He has all kinds of
16 connections with drugs, and he intimidates even the enforcer
17 there with the other inmates. So, this is going on.

18 We have contaminated notices, water notices,
19 hanging in the waiting room. The water is contaminated. The
20 guards drink the bottled water; the inmates drink the
21 contaminated water. The health people say all the water is
22 contaminated, but there's a psychological effect when the guards
23 are drinking the nice water, and the mothers are saying, all
24 this water is contaminated. My son -- you know, it tortures
25 everyone. They don't know what they're having put into their
26 bodies to make them ill. Could be lead; could be the coli
27 bacteria, whatever it is. But there is contaminated water signs
28 in waiting room and no special accommodations.

1 So, if it means nothing, then why are the signs
2 there? They're very upsetting to people who think their
3 children are being given this contaminated water.

4 We have lots of reports of filthy conditions,
5 kitchen conditions, people with the hepatitis virus being
6 allowed to serve food. And I understand it's not a problem if
7 it's C, but it could be a problem if it's B.

8 We had a suicide within the last couple months
9 where the inmate jumped from a third floor balcony. Family's
10 very upset, saying that it's the psychological conditions there,
11 which I can vouch for. I have been very, very miserable there
12 with having my son in that facility.

13 And the Warden was not responsive to problems
14 that we had and that other inmates have had. They did bring it
15 to his attention, but he's very abusive and, we think, rude. We
16 think that, you know, this is a different personality sitting
17 here in this environment.

18 We think that he should not be confirmed, and
19 that these serious matters of life and death, murder, suicide,
20 and so forth at this facility should be investigated.

21 SENATOR LEWIS: For the record, can you tell us
22 what your son was convicted of?

23 MS. BIRD: My son was convicted of about eleven
24 counts, but there was no evidence, no nothing. It was just a
25 total injustice, and I'm going to fight to the death.

26 SENATOR LEWIS: The counts were mostly drug
27 related?

28 MS. BIRD: No, no drugs. He was convicted of

1 sexual assault. And he has a 98-year sentence, and nobody has a
2 scratch upon them.

3 And, of course, we have a lot of that with these
4 new laws, and prisoners are in there on stolen cookies, stolen
5 pizza, you know, that sort of thing.

6 SENATOR LEWIS: You mentioned the death of inmate
7 Eddie Katell. You said you had read his autopsy report.

8 MS. BIRD: Yes.

9 SENATOR LEWIS: Do you have a copy of the autopsy
10 report?

11 MS. BIRD: I don't, but the way that we're
12 working this --

13 CHAIRMAN BURTON: I think a lot of information
14 is going to go to Nettie Sabelhaus.

15 MS. BIRD: Nettie has promised a resolution on
16 these things for us, and at least the mechanisms are that we
17 can -- you know, we've been ignored. People have ignored us.
18 There hasn't been a mechanism in place to take care of all these
19 complaints.

20 SENATOR LEWIS: Warden, she has had a rather
21 lengthy list of complaints. Would you like to comment on
22 several that are probably the most --

23 MR. SMALL: The only reason I'm hesitant is,
24 there are a number of items that if I started talking, I'd be
25 either violating somebody's privacy rights regarding their
26 medical issue or --

27 SENATOR LEWIS: What about her allegation, your
28 son was shipped out yesterday?

1 MS. BIRD: Yes, he was. His status was -- he had
2 earned a Level Three. He was kept in the Hole for two months
3 for protection because his life was in danger there by one of
4 the enforcers trying to kill him. And he was sent out, and he
5 was allowed to you call me after two months. I went through
6 whole holiday not knowing if he was okay or not. And it was
7 supposed to be for protective purposes, but it was very, very
8 punitive.

9 My son has been really suffering emotionally from
10 the conditions there at Calipatria.

11 MR. SMALL: I believe Inmate Knapp had been at
12 Calipatria State Prison for about 18 months prior to that, if I
13 recall correctly. He was a Folsom.

14 MS. BIRD: He was at Folsom.

15 MR. SMALL: He asked to transfer down to
16 Calipatria, the way I understand it, in the hopes of
17 participating in a joint venture program, which is a small,
18 limited program on one of the yards.

19 He did come down with safety concerns. We have
20 600 inmates on D Yard who are there for safety concerns, same
21 kinds of things and other reasons.

22 MS. BIRD: They hate cops.

23 MR. SMALL: Recently Inmate Knapp -- actually in
24 June, Inmate Knapp was being considered for a transfer, and in
25 fact wrote a letter to his counselor asking not to be considered
26 for the transfer until December.

27 About 45, 48 days ago, Inmate Knapp advised staff
28 that he was being harassed by a group of inmates on that yard

1 and was concerned for his safety. He was therefore placed in
2 administrative segregation while we could do an investigation,
3 try and find out what the specifics were, and then make a
4 determination about whether retaining him at Calipatria was
5 appropriate or transferring him was.

6 The only place that I can take and place an
7 inmate who is already on the only safety concern yard and area,
8 and remove him from the general population if he is having
9 problems there, the only place I can move him to is
10 administrative segregation. Administrative segregation is not a
11 nice place to be. You're out of your cell ten hours a week.
12 You do not get your property; you do not get phone calls. That
13 is the operation of the administrative segregation unit, very
14 controlled.

15 SENATOR LEWIS: What specifically happened
16 yesterday?

17 MR. SMALL: Actually, I saw Inmate Knapp, I
18 believe, last Wednesday or Thursday in Classification Committee,
19 put him up for a transfer. I did expedite it, like FAXing some
20 information to Sacramento and getting him endorse d for
21 transfer, and I did have him endorsed to Mule Creek on Monday.

22 MS. BIRD: It's an improvement. I'm glad he's
23 out of Larry Small's hell hole.

24 CHAIRMAN BURTON: Moved by Senator Lewis. Call
25 the roll.

26 SECRETARY WEBB: Senator Baca.

27 SENATOR BACA: Aye.

28 SECRETARY WEBB: Baca Aye. Senator Hughes.

1 SENATOR HUGHES: Aye.

2 SECRETARY WEBB: Hughes Aye. Senator Knight.

3 SENATOR KNIGHT: Aye.

4 SECRETARY WEBB: Knight Aye. Senator Lewis.

5 SENATOR LEWIS: Aye.

6 SECRETARY WEBB: Lewis Aye. Senator Burton.

7 CHAIRMAN BURTON: Aye.

8 SECRETARY WEBB: Burton Aye. Five to zero.

9 CHAIRMAN BURTON: Congratulations.

10 MR. SMALL: Thank you.

11 CHAIRMAN BURTON: Go ahead, sir.

12 MR. BOYAR: Thank you, Senator, and I thank
13 everyone here.

14 SENATOR KNIGHT: What is this?

15 SENATOR LEWIS: The Chair is extending a courtesy
16 to a witness.

17 MR. BOYAR: I won't hold you but two or three
18 minutes.

19 My name is Jesse Boyar, and I'm a member of
20 UNION. I'm out recruiting daily in the communities for people
21 to become aware of the gang problem, the recidivism, and all
22 these things that these gentlemen have been talking about.

23 From my point of view, I have a statement to
24 make, and I hope that what I heard here in this hearing, that
25 it's going in the direction that we can probably take care of
26 some of these very, very serious problems in our communities.
27 I'll start with this right here. It's very short.

28 California prisons, an institution program for

1 failure. The philosophy, one of addiction of the courts, the
2 jails, the prisons and all authoritative persons, groups, and
3 organizations related to the criminal justice system is premised
4 on an ever increasing incarceration rate. In doing so, overt
5 and covert strategy, including KGB methods, is orchestrated to
6 undermine effective programs that is contrary to this
7 philosophy, creating a gulog mentality with people of
8 conscience.

9 I think when I wrote this, I had not heard
10 anybody hear speaking about anything, so it could be some of
11 this emotion in that some people are starting to see this.

12 And I notice also in the Little Hoover
13 Commission, and their ending conclusion saying that recidivism
14 is a problem. We have recidivism that is -- I don't know even
15 know what the word means. To me it says that people are going
16 back into the prison.

17 When they go out into the barrios, and the
18 ghettos, and where ever they're at, under the bridges, or where
19 ever they're at, these people are already hooking up with the
20 prisons. The prisons are already hooked up with the people that
21 are coming in.

22 If we are going to make the building of prisons,
23 which they say they're going to build 30 more, I don't know how
24 many. It doesn't matter the number. That means this is going
25 to be a third rail going into the 2,000 Century.

26 Now, I don't know if any of you have seen that
27 Amnesty International, which is a chilling thing to all of us
28 that are living here in America, that they were coming here to

1 the United States and telling us all the things that are wrong
2 with our country. You gentlemen here that are our leaders have
3 got to pay close attention to this and focus very seriously on
4 what's happening in our neighborhoods. And are we going to have
5 California being the prison capital of the world, which I think
6 it already is, but are we going to use it as a third rail for
7 our economy, like it is in Kern County. It's 40 percent of it
8 is for prisons, and everything that has to do with
9 incarcerations.

10 Thank you very much.

11 SENATOR LEWIS: Thank you.

12 [Thereupon this portion of the
13 Senate Rules Committee hearing was
14 terminated at approximately 12:10 P.M.]

15 --ooOoo--
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That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

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IN WITNESS WHEREOF, I have hereunto set my hand this 11th day of January, 1999.


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APPEARANCESMEMBERS PRESENT

SENATOR JOHN BURTON, Chair

SENATOR JOHN LEWIS, Vice Chair

SENATOR JOE BACA

SENATOR TERESA HUGHES

SENATOR WILLIAM KNIGHT

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

WADE TEASDALE, Consultant to SENATOR LEWIS

FELICE TANENBAUM, Consultant to SENATOR HUGHES

ANDY PUGNO, Consultant to SENATOR KNIGHT

MANNY HERNANDEZ, Consultant to SENATOR BACA

ALSO PRESENT

WINSTON H. HICKOX, Secretary
California Environmental Protection Agency

SENATOR BYRON SHER

STEVE BAKER, Lobbyist
California Association of Professional Scientists
Professional Engineers in California Government

AMY HICKOX, Daughter of Appointee
Washington, D.C.

BONNIE HOLMES-GEN
California Sierra Club

PETER H. WEINER
Paul, Hastings, Janofsky & Walker

1 JACK GUALCO
California Council for Environmental Economic Balance

2
3 TOMMY ROSS
Southern California Edison

4
5 GEORGE GOMES
California Farm Bureau

6
7 COREY BROWN
Trust for Public Land

8
9 STEPHEN MACOLA
Moulden Nigel Water District

10
11 DAN RICHARD, Senior Vice President
Pacific Gas & Electric

12
13 DEE DEE MOOSEKIAN
Congressman GARY CONDIT

14
15 RACHEL DINNO
Planning and Conservation League

16
17 KATHIE SCHMIECHEN
National Audubon Society, California

18
19 CHRIS MICHILI
Lockheed Martin Missles and Space
Semiconductor Materials International

20
21 TIM CREMINS
Operating Engineers, AFL-CIO

22
23 JIM THOMAS, CEO
Thomas Development Partners

24
25 ANN NOTTHOFF
Natural Resources Defense Council
California League of Conservation Voters

26
27 MARY D. NICHOLS, Secretary
Resources Agency

28
29 SENATOR TOM HAYDEN

1 JAN SMUTNEY-JONES
California Independent Energy Producers Association

2
3 BILL PAULI, President
California Farm Bureau

4
5 BILL CRAVEN
Sierra Club, California

6 PAT LEATHERS
7 The Wilson Group
Sun Made Growers of California
8 Southern California Rock Products Association

9 BOB JUDD
10 California Biomass Energy Alliance

11 DAVID HERBST, Vice President
Playa Vista

12 ARTURO ALEMAN
13 California Chicano/Latino Democratic Caucus
14 National Hispanic Recreation Association

15 JOHN WHITE
Center for Energy Efficient and Renewable Technologies

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--ooOoo--

CHAIRMAN BURTON: Governor's appointee, Winston Hickox, Secretary of EPA.

SENATOR SHER: May I do the introduction?

CHAIRMAN BURTON: A brief introduction would well be in order.

SENATOR SHER: Mr. Chairman and Members of the Committee, I'm pleased today to introduce to you Winston Hickox, who has been nominated by Governor Davis to serve as Secretary for the California Environmental Protection Agency.

Mr. Hickox has had a long and distinguished career both in the public and private sectors. He is familiar with both the benefits and the problems associated with the state's environmental regulatory apparatus, and he will bring to the administration a unique ability to ensure that California has a strong, effective, and enforceable environmental protection program, while also making it workable for the regulated community.

Winston served as the Deputy Secretary of Environmental Affairs under Governor Jerry Brown from 1976 to 1983. He also served in management level appointments at the Departments of Agriculture, Finance, Welfare and Health Services in the years between 1965 and 1974. Therefore, he knows very well the inner workings of California government, and he will be very effective in his management of the state's environmental regulatory programs.

After serving in the Brown administration,

1 Winston left public service to work for more than 14 years in
2 real estate investment management. His responsibilities in that
3 area included managing a large real estate investment portfolio
4 for Cal PERS. Winston was also a member of the Board of
5 Directors for the California League of Conservation Voters for
6 nearly ten years, and was President of the Board from 1990 to
7 1994, where he led that organization with distinction.

8 Finally, Winston served on the Coastal Commission
9 as an alternate appointed by the Speaker of the Assembly in
10 1997.

11 As the Committee Members may know, I have been
12 from time to time a strong critic of the performance of the
13 California Environmental Protection Agency since it was created
14 by Executive Order in 1991. Frankly, in my view, in the past
15 the Agency has not done a very effective job to ensure that our
16 environmental protection laws are implemented both effectively
17 and sensibly. The Agency has been in the past a repository for
18 political appointments who had little knowledge of or commitment
19 to solving California's environmental problems. And it has also
20 been an agency which often interfered with the good work that
21 the independent boards and departments under the Agency
22 attempted to accomplish in fulfilling their statutory missions.

23 However, I can say with confidence that, having
24 met with Winston Hickox a number of times since his appointment
25 as Secretary, I'm confident that he possesses the skills and the
26 commitment to turn this Agency around. Specifically, in his
27 letter to the Rules Committee, he has committed to establish an
28 entirely new management team of staff people who both understand

1 and are committed to implementing the laws that we pass here in
2 the Legislature. He has committed to an immediate top-to-bottom
3 review of the Agency to address the problems associated with the
4 structure of the Agency and to work closely with the Legislature
5 to fix the structural problems.

6 He has resolved to ensure that the state's
7 environmental standards are implemented resolutely, but also
8 equitably, and that adverse environmental impacts of various
9 projects' activities on disparate communities are fully
10 mitigated. He has committed to ensuring that California's
11 environmental protection laws are, and I quote from his letter
12 to the Rules Committee, "vigorously, consistently and uniformly
13 enforced."

14 In Budget Subcommittee hearings, Winston has
15 committed to re-evaluating how the Agency is funded and to
16 eliminating the so-called borrowed employees.

17 CHAIRMAN BURTON: We might lose the quorum,
18 Senator.

19 SENATOR SHER: Okay. In any event, he's an
20 outstanding nominee for this job.

21 But I wanted to put those things on the record,
22 those commitments.

23 CHAIRMAN BURTON: Without objection, they'll be
24 made part of the --

25 SENATOR SHER: I give you Winston Hickox, the
26 nominee.

27 CHAIRMAN BURTON: Thank you, Senator, for that
28 very thorough introduction.

1 MR. HICKOX: Thank you, Senator Sher.

2 Good morning, Mr. Chairman and Members. I'm
3 pleased to appear before the Committee today as you consider my
4 confirmation as Secretary for Environmental Protection.

5 I'd like to introduce my wife, Becky, and my
6 daughter Amy who traveled from Washington, D.C. to join me
7 today, and my grandchildren who are here with me today who
8 remind me everyday why this job is so important.

9 In the three-and-a-half months since Governor
10 Davis asked me to join his cabinet, I've been meeting with
11 Members of both Houses, as well as many stakeholders in the
12 environment, government, agricultural, and business
13 communities. From this dialogue, I've gained greater insight in
14 the responsibilities that the Governor and this Committee is
15 vesting in me and all employees of Cal-EPA as guardians of
16 public health and the environment.

17 As Secretary, I commit to fulfill these
18 responsibilities and to carry out the Governor's environmental
19 policies. This includes implementing California's stringent
20 environmental standards resolutely but equitably. Today's
21 environmental issues involve complex interactions, both in the
22 scientific sense and in activities and in choices we pursue as
23 individuals, communities and businesses.

24 Challenges, such as non-point air and water
25 pollution, pesticides, and waste reduction demand integrated
26 strategies and new ways of doing business. Informing and
27 supporting the Governor in his decision to phase out MTBE proved
28 to be an invaluable lesson. His Executive Order was a

1 comprehensive balanced approach to dealing with a difficult
2 issue.

3 I will apply this balanced approach to future
4 challenges confronted by Cal-EPA. Our policies and decisions
5 will be based on sound science as we address the significant
6 risks affecting the Golden State's people, disparate
7 communities, and precious natural resources. I intend to focus
8 on outcomes rather than overly bureaucratic processes. With the
9 cooperation and collaboration of the Legislature and officials
10 throughout government, I also intend to build new coalitions to
11 address California's environmental challenges.

12 I have outlined for this Committee my goals for
13 Cal-EPA. Summarized, I am pursuing several short-term
14 objectives. These include: establishing a new management team;
15 reviewing the structure, delivery and funding of environmental
16 programs; formulating new policy directions for Cal-EPA;
17 partnering with other agencies to craft administrative
18 solutions; and implementing the Governor's MTBE decision.

19 Throughout out my tenure as Secretary, I commit
20 to: vigorously, uniformly enforce our environmental laws;
21 develop an integrated annual environmental plan; apply sound
22 science to our decisions; and serve as an advocate for the
23 environment.

24 The last point is especially important to me.
25 Among the significant, long-lasting effects I can have as
26 Secretary is to create a strong advocacy role as spokesperson
27 for California's environment. As Secretary, I will pursue all
28 opportunities to do this.

1 I commit to work with each of you to improve and
2 sustain California's spectacular natural resources and protect
3 our air, and water, and public health.

4 I'd be happy to answer any questions you may have
5 of me. Thank you.

6 CHAIRMAN BURTON: Thank you.

7 Implementing the Governor's MTBE thing, leaving
8 aside legislation, that would be done by regulation?

9 MR. HICKOX: There are several elements in the
10 MTBE Executive Order that he issued. Some would require
11 legislation. For example, the extension beyond the sunset
12 clause for the underground storage tank cleanup fund. We'll be
13 working with the Legislature to accomplish that.

14 There are some things that we are working on to
15 deal with immediately through the regulatory process.

16 By early this summer, the Air Resources Board has
17 indicated its intention to re-look at the information that was
18 used to designate the Lake Tahoe Basin as still not in
19 attainment technically, and requiring oxygenates in the gasoline
20 this coming winter.

21 It's my belief that in re-looking at the data,
22 and looking at the margin of safety, they'll be able to
23 determine that they will not need MTBE in the gasoline this
24 coming winter.

25 I'm obviously speaking of my opinion. They need
26 to take the action.

27 They also are in the process of promulgating
28 regulations to provide for the labeling of pumps at service

1 stations to indicate whether the gasoline does or does not have
2 MTBE.

3 So, without going through every portion of the
4 Executive Order, some will require legislation; some will not.

5 CHAIRMAN BURTON: What about, you talk about MTBE
6 in gasoline in the winter.

7 How about two-stroke engines in the summer on the
8 Lake? What about that? As I understand it, that's considered
9 to be one of the causes of problems.

10 MR. HICKOX: It is.

11 CHAIRMAN BURTON: Of the problems up there.

12 MR. HICKOX: It is, Senator, and there are a
13 couple of fronts in my area of responsibility where that issue
14 is being addressed.

15 Two-stroke engines are less efficient. They emit
16 more emissions. There's blow-by in terms of fuel. The Air
17 Resources Board, for a number of reasons, is going through the
18 process of leading us to a different technology in terms of
19 boats on lakes.

20 Individual municipalities, in guarding their
21 water supplies, are also in the process of restricting the use
22 of these vehicles where this primitive technology -- maybe
23 that's an inappropriate term -- but this earlier technology
24 causes a risk to drinking water.

25 So, there are a couple of fronts where this
26 battle is being fought.

27 CHAIRMAN BURTON: One last question on that.

28 It seems to me that the MTBE problem just

1 absolutely demonstrates how screwed up government can be,
2 because you had the clean air people saying this stuff is great,
3 and nobody looked at it from the standpoint of clean water.

4 How that could happen is absolutely beyond me,
5 that they never considered that aspect. I talked to Senator
6 Boxer about this two years ago, and her staff said, well, the
7 EPA and the clean air people, they just think it's great. I
8 said, did anybody ever check with the other stuff, because this
9 is where, in the Bay Area, that it started showing up in the
10 reservoirs.

11 It just seems to me, and I don't know if that's
12 your role or whether it's Secretary Nichols' role, but I would
13 hope that when things happen, something goes in the air, it
14 might end up in the water. That people look at the over-all
15 problem or benefits of something as opposed to looking at it in
16 a narrow focus, and not even thinking of making a phone call
17 across the street and say, "Hannigan, your people ought to be
18 looking at this."

19 MR. HICKOX: My response to that is --

20 CHAIRMAN BURTON: Is that your responsibility?

21 MR. HICKOX: It is my, responsibility number
22 one. And I haven't met anybody, or talked to anybody that
23 disagrees with you. Not many people disagree with you anyway.

24 CHAIRMAN BURTON: Quite a few.

25 MR. HICKOX: Senator Sher, in his introductory
26 remarks, was speaking specifically about the need for this
27 Agency to do more in the way of looking at regulatory processes
28 across mediums.

1 I guess I'm likely to go through the rest of my
2 life with MTBE tattooed on my forehead, because it's a reminder
3 of what needs to be done to improve the way in which we go about
4 regulating business and their activities, and their impact on
5 the environment. So, I sure as heck hope I don't create the
6 next MTBE.

7 CHAIRMAN BURTON: What MTBE did, it was one of
8 the few things that could bring together Byron Sher and Dick
9 Mountjoy.

10 Senator Lewis.

11 SENATOR LEWIS: Good morning, Mr. Hickox.

12 MR. HICKOX: Good morning, Senator.

13 SENATOR LEWIS: What is your understanding of
14 just how much latitude the Governor has given you in terms of
15 setting the agenda for Cal-EPA?

16 MR. HICKOX: Well, I guess I would answer that
17 question the following way. Imbedded in the introductory
18 remarks is a delineation of my experiences, both inside and
19 outside of government. The Governor and I first worked with one
20 another beginning in 1976, when I was the then-called Deputy
21 Secretary for Environmental Affairs. And he and I have been
22 good friends for -- friends for a long time. And we've talked
23 about issues in this area of government.

24 During the race for governor last year, he came
25 before the League of Conservation Voters to talk to us about his
26 views on environmental issues, so I have a pretty good sense of
27 his views.

28 But he constantly reminds me it would probably be

1 a good idea to not get too far out in front of him. So, we
2 spent a lot of time with him when we brought forth this outcome
3 with regard to MTBE.

4 So, the specific answer to your question is, as
5 long as I don't get too far out in front of him, I have a pretty
6 good idea of where his policies lie, and he and I have had a lot
7 of conversations on these subjects.

8 SENATOR LEWIS: Cal-EPA oversees six different
9 entities. How much autonomy will these entities have?

10 MR. HICKOX: As you know, Senator, the
11 Legislature in its wisdom created the Air Resources Board to
12 deal with issues relating to air pollution, the State Water
13 Resources Control Board to deal with water quality related
14 issues, along with the nine regional boards, and the Integrated
15 Waste Management Board to deal with what you would loosely
16 describe as land pollution.

17 I say the Legislature in their wisdom, because
18 these are three of the six entities. They're headed by a plural
19 body. And by design, they are often referred to as independent
20 boards. And they carry out their mission in a very public way
21 through public hearings, and bringing to bear on issues
22 different disciplines -- representatives from the legal
23 community; from agriculture; water community; engineering; et
24 cetera -- to deliberate the environmental approaches -- the
25 regulatory approaches to these environmental programs.

26 It's my view that they are in fact independent
27 boards. And that my principle role is a facilitator,
28 coordinator, communicator, with a little bit of control in terms

1 of the budget process and in terms of broad policy direction.

2 SENATOR LEWIS: It's my understanding that this
3 year alone, the BLM, Forest Service, and the Department of
4 Forestry and Fire Service want to jointly control burn more than
5 300,000 acres of forest land in this state.

6 What is your opinion of the kind of effect that
7 would have on air quality?

8 MR. HICKOX: Senator, I've read about as much as
9 the average person in California has through newspaper coverage
10 of some of the preliminary hearings that are under way,
11 including the Air Resources Board. It's not an issue that I
12 have delved deeply into.

13 But clearly there, like most issues in terms of
14 the environment, there are somewhat conflicting objectives that
15 meet to try and find a compromise solution. There's a concern
16 that concentrated burning, out of control fires, would have a
17 huge effect, particularly on sensitive populations, though these
18 are generally rural areas, and that they would have a
19 significant impact on visibility in some of our more pristine
20 areas.

21 There are discussions and deliberations under way
22 as to how to facilitate controlled burnings so that what's
23 necessary to protect our forests can be accommodated, while at
24 the same time, protecting our air quality.

25 It's an issue that's not yet resolved. The best
26 I can do is reflect for you the differing points of view, and
27 the fact that we're still in the deliberative process.

28 SENATOR LEWIS: I also understand that there are

1 plans to control burn 10,000 acres of timber land in the Tahoe
2 Basin each year in the next decade, which apparently means that
3 they're estimating about 8 million pounds of ash will fall into
4 the Lake each year.

5 Would it make more sense to allow harvesting as
6 opposed to those controlled burns on that kind of sensitive
7 acreage?

8 MR. HICKOX: To respond to that and tie a couple
9 of things together, as I think you would recall in the
10 Governor's Executive Order with regard to MTBE, the potential
11 for the need substitute ethanol for MTBE as an oxygenate gives
12 rise to consideration for how ethanol could be produced in
13 California rather than imported from the midwestern states.

14 Agricultural and forest wastes are a potential
15 source for the production of ethanol. If we find that there's a
16 market for ethanol, and if we can facilitate production of
17 ethanol from waste materials that would otherwise create
18 problems in the environment in another medium, this is, in fact,
19 a case study in the making of the need to consider cross medium
20 implications in solution to problems, I think it's obvious that
21 we'd rather produce fuel where it's needed rather than burn and
22 produce air pollution.

23 SENATOR LEWIS: What about lumber?

24 MR. HICKOX: You mean the waste materials from
25 the lumber --

26 CHAIRMAN BURTON: If you cut down the trees
27 instead of burn them?

28 MR. HICKOX: First of all, my understanding is

1 that what we're talking about with regard to forest materials
2 that would be burned is the undergrowth that potentially could
3 trigger an out of control fire. So, the idea is to harvest that
4 material and use it, as I suggested, to produce ethanol or an
5 alternative fuel. The idea is to minimize the burning.

6 But the purpose of the burning of that
7 undergrowth is to lessen the risk of an uncontrolled burn that
8 would produce huge amounts of pollution in the mountain areas.

9 CHAIRMAN BURTON: Just to follow-up on that just
10 for a minute.

11 So, the controlled burning, you'd be burning the
12 underbrush, and none of the trees would get burned?

13 MR. HICKOX: The intent is that.

14 CHAIRMAN BURTON: Does it work that way?

15 MR. HICKOX: Yes, it does work that way when the
16 intent of the program is fulfilled, but from time to time --

17 CHAIRMAN BURTON: You're not talking about a
18 massive burning, controlled burning of --

19 MR. HICKOX: Of the forest itself.

20 CHAIRMAN BURTON: -- of trees, because if you
21 burn the trees, I would think it would make more sense --

22 MR. HICKOX: To convert it to lumber. No, that's
23 not what's intended.

24 CHAIRMAN BURTON: Thanks.

25 SENATOR LEWIS: We're no longer able to utilize
26 methyl bromide under federal law; although, I understand that
27 there are other countries that have the ability to utilize it
28 until I think the year 2015.

1 Do you think that this puts us at any kind of a
2 competitive disadvantage, and what are your thoughts on that?

3 MR. HICKOX: At the moment we're not, but there
4 is a risk to our farming community that they may be.

5 The phase out of methyl bromide has been extended
6 to the year, I believe, 2004. This is part of international
7 protocols that have identified methyl bromide as a risk to the
8 ozone. There has been to date serious effort to identify other
9 alternatives to methyl bromide.

10 The Ag and Water Transition Task Force that I was
11 member of, that was chaired by, among others, Congressman
12 Condit, made a recommendation that the new administration
13 support additional funding to identify alternatives to the use
14 of methyl bromide.

15 So, we're still in the phase down phase of
16 dealing with methyl bromide. And it is a concern to the farming
17 community, finding an appropriate alternative.

18 SENATOR LEWIS: Last question. How are you
19 progressing on staffing all of the boards under EPA?

20 MR. HICKOX: Progress has been made. There were
21 several regional water board appointments made recently that
22 brought us to quorums. The Director for the Department of Toxic
23 Substance Control, the Director of Pesticide Regulation, the
24 Chair of the Air Board, have all been appointed, and other
25 appointments are under way.

26 SENATOR LEWIS: Thank you.

27 Senator Baca.

28 SENATOR BACA: Thank you, Mr. Chair.

1 Winston, experts believe that infants and
2 children are more susceptible to chemical poison than adults.

3 Have you started to look into ways of better
4 protecting the health of infants and children from the exposure
5 to toxic substances?

6 MR. HICKOX: Senator, as an example, the air
7 quality standards that are set here in California are based upon
8 the impacts on the most sensitive members of our population. I
9 think you're aware that last year, during commentaries about
10 then-Assemblywoman Escutia's bill, the Governor indicated that
11 he has a concern for the need to address the more sensitive
12 populations in a comprehensive way.

13 And I have met with Members of the Legislature,
14 including Senator Escutia, and my administration is very much
15 open to legislation that would require that in the setting of
16 standards, we take into consideration children specifically.

17 SENATOR BACA: Thank you.

18 As a follow-up question, research finds that air
19 pollution and other hazards are worse in areas of concentrations
20 of ethnic minorities and low-income people. Correcting the
21 problem is known as environmental justice.

22 What is Cal-EPA Planning to do to better
23 understand those problems and to start correcting them?

24 MR. HICKOX: Senator, environmental justice is an
25 issue that I, as a member of the League of Conservation Voters
26 Board, supported a program to, in our own way, affect
27 environmental justice. Last year, we provided support for
28 people that we felt would occupy positions in elective office

1 that would be supportive of the environment through Spanish
2 speaking radio, television, et cetera.

3 I only highlight that as an expression of my
4 personal support for the concepts of environmental justice.

5 Again, in my first 90 days of meetings, I've
6 talked to a number of people, including Members of the
7 Legislature, about their thoughts and ideas.

8 Clearly, one of the areas where this can be best
9 addressed is to recognize that individual sources of pollution
10 in communities may well be meeting the standards or the
11 regulatory requirements that they face, but we should take the
12 time to look at the aggregate of all of these and its impact on
13 the community, and that has not been done to date. It's
14 something that I wish to pursue.

15 SENATOR BACA: Finally, the other one pertains to
16 transportation, land use, and air quality.

17 Do you feel the current requirements for indirect
18 source review are adequately addressing the relationships
19 between transportation, land use, and air quality?

20 MR. HICKOX: I don't, Senator. But the new
21 administration's focus on infrastructure development provides a
22 forum for us to more adequately, and on a much more broader
23 basis, look at growth and development, and in the words of those
24 from the environmental community, look at sustainable growth as
25 a way to plan for the new people that will come to California,
26 both by immigration and birth, and deal with the impact on the
27 environment.

28 I believe that the Legislature, in its wisdom,

1 and the way in the which programs have been set up, has called
2 for these kinds of considerations, meaning that the way in which
3 we plan for transportation will have an effect on the way in
4 which we impact the environment. Just as the recent emphasis on
5 infill development will deal with another problem that nobody's
6 exactly raised, but dealing with brown fields, the abandoned
7 former industrial properties that are very much in need of
8 rehabilitation so they can be put to back into productive use.

9 We need to integrate a number of these programs
10 and focuses as we look to planning for the growth requirements
11 of the State of California in the decade or two ahead.

12 SENATOR BACA: Thank you.

13 SENATOR LEWIS: Any other questions from Members
14 of the Committee? Senator Knight.

15 SENATOR KNIGHT: Thank you, Mr. Chair.

16 In my district, we don't have too many trees.
17 But when I was on the farm and we had to clean out the woods, we
18 didn't waste too many things. If we did build a fire, it was
19 over a rock that busted up to get rid of it.

20 We've got other problems in my district. One of
21 them is Owens Lake, a very nasty situation caused by the removal
22 of water from the lake. The lake is dried up, and now the lake
23 bed, during high winds, produces a dust storm of toxic material
24 that is affecting various communities.

25 Are you aware of the problem, and is there
26 anything that you plan on in that arena?

27 MR. HICKOX: Senator, I am aware of the
28 problem. You and I met several weeks ago, and you opened the

1 subject with me.

2 Since that time, I've had an opportunity to
3 discuss with some people the legislation that you've offered to
4 deal with it.

5 I know you understand that the Air Resources
6 Board and its statewide responsibility for dealing with air
7 pollution issues, including particulate matter, serves as the
8 arbiter of disputes between local government entities in cases
9 such as yours.

10 I am aware that there has been a Memorandum of
11 Understanding created to hopefully deal with this situation, but
12 I believe I fulfilled my commitment to you that I did take a
13 look at this issue. I've met with people and discussed it and
14 read some materials.

15 And I'll be happy to work with you on a going
16 forward basis to try and deal with the problem as best we can
17 from your perspective.

18 SENATOR KNIGHT: Well, I think one of the
19 significant things is, if we don't get it cleaned up, the
20 federal EPA is going to clean it up and charge the state.

21 MR. HICKOX: Yes, sir.

22 SENATOR KNIGHT: So, we have an incentive to have
23 it done internally.

24 MR. HICKOX: That's right.

25 CHAIRMAN BURTON: Witnesses in support.

26 MR. BAKER: Thank you, Mr. Chairman. Steve Baker
27 with Aaron Read and Associates representing the California
28 Association of Professional Scientists and the Professional

1 Engineers in California Government. We have employees in these
2 agencies, and they fully support the Secretary.

3 MS. HICKOX: Good morning. My name is Amy
4 Hickox. I came in from Washington today, so if you'll indulge
5 me for a couple minutes.

6 I must say, I was a bit nervous when my father
7 said the word "confirmation hearing," coming from Washington.
8 But a friend reminded me that, in fact, I was going to
9 California, and I wasn't going to be in Washington, so it made
10 me feel much better.

11 It's an honor to be with you today to speak on
12 behalf of my father's nomination as Secretary of the California
13 Environmental Protection Agency. I know that my father is
14 immensely qualified for this job, but there are others here
15 today more qualified to speak to the specifics of his management
16 and policy experience.

17 What I would like to briefly talk with you about
18 is not Winston Hickox, the Cabinet Secretary, but Winston Hickox
19 the father, my father, and the leadership and strength of
20 character I know he will bring to this job.

21 I have learned through my father that one of the
22 effects and benefits of public service is having the chance to
23 impact others. My father's dedication to public and community
24 service has had a profound impact on me and has been a model for
25 how I've shaped my life. There was little question in my mind
26 when I graduated from college here in California that I would
27 follow his lead, so I moved to Washington, D.C. to take a job on
28 Capitol Hill.

1 Since then, I have worked for two Members of
2 Congress, one of whom became Secretary of Defense, and have held
3 a variety of positions in the Department of Defense. Currently
4 I work for the First Lady at the White House Millennium Council.

5 But my father has also helped me understand what
6 it takes to be a good public and community servant. I've
7 learned that success isn't solely based on knowledge and desire.
8 It's also about the values behind our work. It's about being a
9 good parent, a good spouse, a good child, a good neighbor, a
10 good citizen, and the best individual you can be, having
11 empathy, listening to others, being committed, sticking by your
12 word, and being balanced.

13 My father has led by example in all of these
14 areas. However, I must confess, he is a little unbalanced about
15 his beloved 49ers. And I figure that after 30 years of faithful
16 allegiance, he can be forgiven for that.

17 Others who follow will surely touch on my
18 father's policy and management qualifications, but these aspects
19 of my father also strike me as equally important for someone who
20 wants to be a public servant.

21 I know there's a great deal of skepticism and
22 mistrust on the part of citizens towards government today. I
23 know, too, from my own experience in government that much of
24 this is unfounded, that the vast majority of those who step up
25 to the plate to take positions of responsibility in our
26 government are honest, hard working, and dedicated people.
27 They're people like my father.

28 As a mother with a young son and another one on

1 the way, seeing such skepticism and concern about public service
2 troubles me. But at the same time, it makes me proud and is
3 tremendously heartening for me to see a personal role model of
4 mine willing to step up to the plate and serve again. We need
5 people like him to help change perceptions and remind people
6 what's good about public service. It makes me hopeful for my
7 children that they will want to serve some day.

8 In closing, I want to thank you for your time.
9 It's a tremendous opportunity for a daughter to be able to tell
10 her father in such a public forum how proud she is of him, and
11 how much I appreciate his example -- how his example has shaped
12 who I am today.

13 I know he'll do an outstanding job for the people
14 of California, and more importantly, I know he's just the kind
15 of caring, dedicated, and thoughtful person that citizens hope
16 will assume positions of public trust.

17 Thank you.

18 CHAIRMAN BURTON: Thank you.

19 MS. HOLMES-GEN: Thank you, Senator Burton,
20 Members, Bonnie Holmes-Gen representing Sierra Club California.

21 And we are pleased to be here today to endorse
22 Winston Hickox as Cal-EPA Director. We believe he is someone
23 who is concerned about public health and the environment, and
24 motivated to protect public health and the environment, and
25 committed to making the Agency work. He has shown that he will
26 be someone who is accessible and will listen to the
27 environmental community.

28 We are pleased with the commitments expressed by

1 Mr. Hickox to review the over-all structure and goals of the
2 Agency, and pleased that he has already set goals to bring
3 multi-media coordination into Cal-EPA.

4 We do believe that the Governor's Executive Order
5 on MTBE demonstrates a new kind of leadership, and the kind of
6 multi-media approach that has been missing at Cal-EPA in the
7 past, and provides a helpful first step toward broadening the
8 cross media approach to other issues in the Agency.

9 We endorse Winston Hickox for Cal-EPA Secretary.

10 MR. WEINER: Thank you, Mr. Chairman, Members of
11 the Committee. Peter Weiner from Paul, Hastings, Janofsky &
12 Walker. I represent a broad variety of business interests which
13 regularly have issues involving the constituents' boards,
14 departments and offices of Cal-EPA.

15 I was a supporter of Cal-EPA's creation and have
16 been a sometime critic of its performance.

17 I'm pleased to support the confirmation of
18 Winston Hickox as Secretary of the California Environmental
19 Protection Agency. I've known Mr. Hickox for 20 years. He has
20 a broad programmatic background that is key to establishing
21 priorities and the fiscal training so essential to implementing
22 those priorities successfully.

23 Perhaps more important to the Secretary position,
24 Mr. Hickox is a man of honesty, humor, and energy. He's clearly
25 dedicated to protecting human health and the environment, both
26 in implementing the mandates of the Legislature, and in seeking
27 out new challenges to prevent, for example, the new MTBE.

28 But he is also a man who listens, both to the

1 Legislature and to the public, a man who seeks consensus but
2 will make the hard decisions when consensus is not possible.

3 Cal-EPA has been criticized in the previous
4 administration, and justifiably so. If the Davis administration
5 is to coordinate the Cal-EPA constituent agencies and establish
6 accountability, while respecting the independent nature of those
7 various boards, Winston Hickox is a terrific choice to make
8 these things happen.

9 I hope you vote to confirm him. Thank you.

10 MR. GUALCO: Mr. Chair and Members, Jack Gualco
11 on behalf of the business, labor, and community leader folk who
12 make up the California Council for Environmental Economic
13 Balance.

14 We're pleased to appear today in support of
15 Secretary Hickox's confirmation. We've found during the brief
16 time he's been at that post that he's been willing to roll up
17 his sleeves, ask the tough questions, raise, I think, some very
18 challenging questions about the scope and the interrelationship
19 of the Cal-EPA Agencies. We believe those kinds of questions
20 are long over due. We're looking forward to working with him,
21 and we're looking forward to continue to answer his very tough
22 questions.

23 We urge your support of his confirmation. Thank
24 you.

25 MR. ROSS: Mr. Chairman and Members, Tommy Ross,
26 Southern California Edison.

27 While I don't claim to be a member of
28 Mr. Hickox's family, I do want to let you know that John Bryson,

1 our Chairman of the Board, does have a long-term relationship
2 with Mr. Hickox. I want to make sure you knew that from his
3 perspective, he thinks he's a fine gentleman who would be a fine
4 Secretary of Cal-EPA, and would encourage your support for his
5 confirmation.

6 MR. GOMES: Mr. Chairman and Members, my name is
7 George Gomes with the California Farm Bureau.

8 We have had an opportunity to work Mr. Hickox,
9 and he has shown a commitment to basing decisions upon sound
10 science, to being open to input from all parties.

11 We encourage your full support of his
12 confirmation.

13 MR. BROWN: Thank you, Mr. Chairman and Members.
14 Corey Brown with the Trust for Public Land.

15 We also support Mr. Hickox's confirmation. He
16 understands how the different components of California's
17 environmental policy work together. We look forward to
18 excellent decision making. We urge your confirmation.

19 MR. MACOLA: Mr. Chairman, Steve Macola on behalf
20 of Moulden Nigel Water District.

21 We're familiar with Mr. Hickox. He's a wonderful
22 appointment. We ask for his confirmation. Thank you.

23 MR. RICHARD: Mr. Chairman and Members, I'm Dan
24 Richard, Senior Vice President of Pacific Gas and Electric
25 Company. I'm also the President of the Board of the Bay Area
26 Rapid Transit District and a friend of Winston Hickox for 20
27 years. I've worked with him in the environmental community in
28 many capacities. He's very tough; he's very smart; he's very

1 fair.

2 We urge your confirmation. Thank you.

3 MS. MOOSEKIAN: Mr. Chairman, Members, Dee Dee
4 Moosekian, here on behalf of Congressman Gary Condit.

5 Congressman Condit was the Chair of Governor
6 Davis' Transition Task Force on Ag and Water on which Winston
7 Hickox served.

8 Congressman Condit strongly and enthusiastically
9 supports Winston Hickox in this position. He feels that not
10 only is Mr. Hickox fiercely dedicated to environmental quality
11 in California, but also that he is dedicated to building
12 consensus where possible. He's fair, open-minded, and we trust
13 that he will do an excellent job.

14 MS. DINNO: Good morning. My name's Rachel Dinno
15 with the Planning and Conservation League.

16 We strongly urge you to support Mr. Hickox in
17 this position. We believe his leadership and his guidance in
18 protecting our environmental resources in this state will be of
19 great value.

20 Thank you.

21 MS. SCHMIECHEN: Good morning, Mr. Chair and
22 Committee Members. My name is Kathie Schmiechen. I represent
23 the National Audubon Society.

24 We've already worked with Mr. Hickox on the MTBE
25 issue, and we strongly support his confirmation.

26 MR. MICHELI: Mr. Chairman and Members, Chris
27 Micheli with Carpenter, Snodgrass, on behalf of Lockheed Martin
28 Missiles and Space, and Semiconductor Materials International, a

1 high tech trade association.

2 We urge your support for his confirmation. Thank
3 you.

4 MR. CREMINS: Mr. Chairman and Members, Tim
5 Cremins, Operating Engineers, AFL-CIO.

6 We strongly support Mr. Hickox. I think he's
7 probably in the forefront of one of the toughest issues facing
8 the Legislature today, is both economic and environmental
9 vitality of the state, trying to keep it alive. And he has
10 certainly shown a willingness to give us a say and a voice in
11 the process.

12 MR. THOMAS: Good morning. I'm Jim Thomas. I'm
13 CEO of Thomas Development Partners.

14 As a real estate developer, we feel we have a
15 special responsibility to the environment. I've known Winston,
16 both in business and as a personal friend. He think he would
17 make an excellent selection, and I urge your confirmation of his
18 appointment.

19 MS. NOTTHOFF: Ann Notthoff with the Natural
20 Resources Defense Council. And I've had a chance to serve with
21 Winston as a fellow board member on the California League of
22 Conservation Voters, where he distinguished himself with his
23 great administrative ability, and I have confidence he'll do the
24 same here for the State of California. Support his
25 confirmation.

26 CHAIRMAN BURTON: Witnesses in opposition?

27 SENATOR HUGHES: I'd like to oppose the
28 nomination of Mr. Hitchcock, and I'd like to move the nomination

1 of Mr. Hickox.

2 SENATOR KNIGHT: Mr. Chairman, if his daughter is
3 any indication of his abilities, then I would suggest we let him
4 try with the Cal-EPA and see what he can do there.

5 CHAIRMAN BURTON: Call the roll.

6 SECRETARY WEBB: Senator Baca.

7 SENATOR BACA: Aye.

8 SECRETARY WEBB: Baca Aye. Senator Hughes.

9 SENATOR HUGHES: Aye.

10 SECRETARY WEBB: Hughes Aye. Senator Knight.

11 SENATOR KNIGHT: Aye.

12 SECRETARY WEBB: Knight Aye. Senator Lewis.

13 SENATOR LEWIS: Aye.

14 SECRETARY WEBB: Lewis Aye. Senator Burton.

15 CHAIRMAN BURTON: Aye.

16 SECRETARY WEBB: Burton Aye. Five to zero.

17 CHAIRMAN BURTON: Congratulations, Winston.

18 MR. HICKOX: Thank you, sir.

19 CHAIRMAN BURTON: Next, Mary Nichols, Secretary,
20 Resources Agency.

21 Senator Hayden.

22 SENATOR HAYDEN: Thank you, Mr. Chairman and
23 Members.

24 I'm honored to introduce for your consideration
25 and support the confirmation of Mary D. Nichols for Secretary
26 of Resources.

27 Mary Nichols has had a very long experience and
28 is one of the products of the environmental movement who has

1 become a real professional, a real administrator. She served
2 with current Governor Davis during the Brown administration in
3 the 1970s on the Air Resources Board, and was Chair of it,
4 Secretary for Environmental Affairs.

5 She additionally, during the Clinton
6 administration, served in the top position for Air and Radiation
7 at the Environmental Protection Agency.

8 All along, she has also served as an
9 environmental attorney, as administrator of organizations such
10 as the Natural Resources Defense Council. She's had clients,
11 both public and private.

12 I know her to be a person of great environmental
13 idealism in terms of her goals, and I also know her as a real
14 centrist in her approach. And I have had the experience of
15 having to lobby, argue, and be brought to the table by
16 Ms. Nichols.

17 And I think that she has the qualities that
18 Governor Davis has spoken of, and that those are very proven
19 qualities: to believe in the Governor's programs; the
20 Governor's vision; and to function from the center, trying to
21 bring stakeholders together to solve problems. Tough to find
22 that kind of person. It's usually one or the other. I think
23 she's terrific in both capacities.

24 If you look at her letter to the Rules Committee,
25 she stresses those qualities, skills in management, number one.
26 Skills in collaborative approaches to solving resource issues,
27 number two. A firm commitment to implementing and enforcing the
28 laws that we have on the books before we start writing new laws.

1 A firm commitment to science, really independent science in
2 decision making. And a commitment to increased funding for
3 certain needs, such as the woeful state of our parks and
4 recreational facilities.

5 That's a good agenda. It's one that we can work
6 with. I think you have before you an eminently qualified
7 professional and dedicated public servant in Mary Nichols. We
8 should be proud to have her, and I would urge the Committee to
9 confirm her nomination.

10 MS. NICHOLS: Thank you very much, Senator
11 Hayden. I'm proud to be one of your constituents and to have
12 worked with you over the years in a number of areas to improve
13 the state of California's environment.

14 We in California are indeed blessed with a
15 richness and diversity of natural resources which is only
16 matched by the richness and diversity of our human resources.
17 It's my great honor and privilege to have been chosen by
18 Governor Davis to be the chief steward of the state's natural
19 resources and to attempt to manage and restore wherever possible
20 the beauty and the productivity of those resources.

21 I look forward to working with this Committee.
22 As Senator Hayden indicated, I have submitted a letter which
23 outlines my priorities in more detail. So, I think without
24 further ado, I'd just like to make myself available for your
25 questions.

26 CHAIRMAN BURTON: Just a couple.

27 In the area of water, I become kind of concerned
28 that California, I guess, is the only state in the Union without

1 a groundwater management plan.

2 Surprisingly enough, I think Orange County, are
3 they the only county in the state with an actual groundwater
4 management plan?

5 MS. NICHOLS: I'm not certain at the county
6 level. We do have a number of areas where districts have gone
7 and either voluntarily or through adjudication worked out
8 groundwater management plans.

9 CHAIRMAN BURTON: There was a bill passed a
10 couple years ago, Senator Costa and Jones, I think it was either
11 2020 or 3030, that permitted groundwater management, which I
12 assume, if you need a law to permit you to do something, it's a
13 real problem. It's my understanding that there was a study on
14 that, that said nothing really happened.

15 Could your Agency try to bring together forces to
16 do something on the groundwater management issue? Would that
17 take legislation? And with all your responsibilities, have you
18 given much thought to what would be doable without necessarily
19 giving some of the ag people a heart attack?

20 MS. NICHOLS: Well, Senator Burton, there's no
21 doubt that California's groundwater is one of our most valuable
22 resources, and the groundwater basins are increasingly being
23 looked to for their value in terms of management of the state's
24 water supplies.

25 It is true that we do not have a comprehensive
26 program for groundwater management, and that in the past, there
27 has been considerable opposition to creating such a program,
28 mainly from owners of land that overlies those groundwater

1 basins.

2 It's also true that there's increasing
3 recognition that in many areas of the state we have over drafted
4 the groundwater and made it difficult to use it as it should be
5 used. For that reason, I think there's increasing interest in
6 the area of finding a method and some incentives to get people
7 into a more systematic approach to groundwater.

8 I think that the CALFED process has begun to more
9 clearly identify the basic reasons why and some of the
10 parameters that you'd want to use in the groundwater management
11 program, as well as to show the need for storage, including
12 groundwater storage, as part of an over-all plan for assuring
13 long-term, reliable, safe supplies of water for California.

14 So, I would expect that there will be some real
15 momentum behind developing such plans for the future, and I look
16 forward, along with Tom Hannigan, our new Director of Water
17 Resources, to developing some specific proposals that would move
18 us in that direction.

19 CHAIRMAN BURTON: Senator Lewis.

20 SENATOR LEWIS: Good morning.

21 MS. NICHOLS: Good morning.

22 SENATOR LEWIS: It's been my experience, or it
23 seems to me that too often emotion plays too great a part in
24 creating at least some environmental regulations.

25 I guess my question to you is, do you think that
26 we should ever deviate from using sound science and credible
27 science for creating environmental regulations?

28 MS. NICHOLS: I can't think of an instance in

1 which environmental regulations aren't or shouldn't be based on
2 science.

3 There's always an element, however, in the
4 regulatory process where judgement has to be introduced as to
5 how you evaluate the science. And there, I suppose, other
6 values sometimes come into play, such as equity, fairness, and
7 those sorts of things.

8 SENATOR LEWIS: What are your thoughts about
9 changing or eliminating regulations that might prove to be
10 either somewhat ineffective or at least too costly in terms of
11 what they provide?

12 MS. NICHOLS: I believe very strongly, Senator,
13 that we should be trying to marshal our resources, including our
14 tax dollars, in the direction of programs that give us the most
15 bang for the buck, and that if at all possible, have multiple
16 benefits.

17 And the converse of that is that you should at
18 least try to identify programs where, if it's obvious that
19 there's no merit being served, that you could eliminate it.

20 I'm proud to say I'm only person in the history
21 of EPA, as far as I know, the federal government, ever to have
22 gotten a chemical actually de-listed as a toxic chemical because
23 I felt the science simply did not support the notion that it
24 belonged on the list.

25 I think it's important for government to be able
26 to do that where the science warrants.

27 SENATOR LEWIS: What environmental regulation in
28 California today would you say might be an example of regulatory

1 over-kill?

2 MS. NICHOLS: I have not personally identified
3 any such regulations, but I'm certainly prepared to concede that
4 there might exist, and would be open to learning about them. I
5 think that's part of the continuous improvement process that we
6 need to go through.

7 SENATOR LEWIS: In your experience on the federal
8 level, you must have been aware of any number of studies
9 dealing, for example, with ride-sharing policies in California.
10 Do you think that those are a valuable way to fight air
11 pollution in terms the dollars spent versus the pollution
12 reduced?

13 MS. NICHOLS: Senator, as you know, that area is
14 not one that I've been working in for sometime now, but going
15 back to the days when I was working in the air pollution
16 regulatory field, I believe we were in a situation where South
17 Coast Air Basin felt rather strongly, because of the disparate
18 nature of the problem, that is, the high degree of pollution and
19 the amount of regulation that has already been imposed on
20 stationary sources of pollution, that they needed to try other
21 tools to get at the remaining large share of the problem that's
22 caused by individual motorists and their cars. And they saw the
23 ride-sharing program as an effective way to remind people,
24 especially those who work in concentrated areas with large
25 employers, that it would be a more effective way to reduce
26 pollution and get people to and from work.

27 So, it was not a program that we were pushing or
28 requiring. It was a program that was developed locally.

1 SENATOR LEWIS: Did you ever independently look
2 into that? Did you share their view that it was an effective
3 tool?

4 MS. NICHOLS: Did I independently look into that
5 issue? Yes, I certainly reviewed some reports and studies on
6 it that indicated that in terms of cost effectiveness per se,
7 it was not one of the cheapest ways to get reductions in
8 pollution.

9 But it is a matter of local choice, and it's up
10 to local governments to make those choices as how they want to
11 go about solving a complex problem like air pollution. It's not
12 an area that the federal government has a right to interfere in
13 under the federal Clean Air Act.

14 SENATOR LEWIS: With regard to the San Luis Delta
15 Mendota Water Authority, the Wilson administration had filed an
16 amicus brief supporting the Water Authority in the lawsuit it
17 had with the federal government, and then you pulled the brief.

18 First of all, what was the Agency's or your
19 rationale for withdrawing that brief?

20 MS. NICHOLS: Senator, when I came into office at
21 the same time as the Governor was inaugurated, I was made aware
22 of the fact that there was an amicus brief which had been
23 prepared by the Attorney General's Office at the request of the
24 Wilson administration but had not yet been filed with the
25 court.

26 I had not had a chance to read the brief, but it
27 was obvious from the case that it was a brief that was intended
28 to side with one party in a complicated litigation matter that

1 was directly related to the underlying issues that were being
2 considered through the CALFED process. And I asked the Attorney
3 General to hold the brief and to submit it for me to review the
4 contents of the brief so that I could make an independent
5 decision as to whether the Davis administration wanted to
6 continue with the position that the Wilson administration had
7 been advocating.

8 SENATOR LEWIS: Was that a unilateral decision on
9 your part?

10 MS. NICHOLS: Yes, it was.

11 SENATOR LEWIS: Well, Governor Davis did file an
12 amended brief later on.

13 MS. NICHOLS: Yes, he did.

14 SENATOR LEWIS: What was your role in filing the
15 amended brief?

16 MS. NICHOLS: I worked with the stakeholders who
17 had been involved in the CALFED process and in the Ag Water
18 Transition Committee, and who had been involved in the
19 litigation to see if there was a position that the Davis
20 administration would wish to take which was less prejudicial in
21 terms of the items that were under discussion in the CALFED
22 process, but that continued with the Governor's position that
23 the Interior Department should prepare an accounting of water
24 under the CVPIA, the Central Valley Project Improvement Act.

25 So, as you stated correctly, the brief that we
26 submitted in the end was a different brief; although, portions
27 of it were identical. Portions of the earlier brief were
28 deleted that appeared to take a position as to how the

1 accounting should be done by the Interior Department.

2 My role was to help put that together.

3 SENATOR LEWIS: In the February 27 edition of the
4 San Francisco Examiner, you were quoted as saying that Governor
5 Davis had ordered a doubling of inspection and enforcement
6 activities of the Department of Fish and Game, the Department of
7 Forestry, and the Department of Conservation as they relate to
8 logging in Humboldt County.

9 Why was Humboldt County, which only accounts for
10 27 percent of the timber harvest in the State of California, why
11 was Humboldt County singled out?

12 MS. NICHOLS: I believe that that quote doesn't
13 accurately reflect what the Governor's program is. I'm assuming
14 that the quote is correct, but the intent was not to single out
15 Humboldt County.

16 Actually, the increasing in enforcement is
17 throughout an entire region as defined by the Department of
18 Forestry and the Department of Fish and Game, which includes the
19 north coast area where most of the logging in the state occurs.
20 It's not limited to Humboldt County.

21 I suspect I was either answering a reporter's
22 question, or perhaps simply focusing on Humboldt because that
23 was what we were talking about in the conversation.

24 SENATOR LEWIS: In a speech that you give at PCL,
25 you referred to Mr. Charles Herwitz as one of the better known
26 robber barons of American history.

27 I was just curious if you think that's the
28 appropriate kind of verbiage for an Agency Secretary to use?

1 MS. NICHOLS: That speech, which was quoted, I
2 think, in a Dan Walters column, is an accurate quote from the
3 speech. I believe that in the context it was given, it was a
4 term that was used with humor. It's also a term of art, and I
5 stand by it.

6 SENATOR LEWIS: So, it was a roast.

7 It's been shown that direct selectively thinning
8 trees in unhealthy forests will eliminate a large percent of the
9 future tree death, and also lower the risk of catastrophic wild
10 fires.

11 Do you think that's a useful tool in areas like
12 the Lake Tahoe Basin?

13 MS. NICHOLS: Senator, I can't comment on a
14 specific forest and what the correct methods of dealing with
15 forest health are.

16 I'm very fortunate that the Governor has
17 appointed as the Director of Forestry Andrea Tuttle, a person
18 who has a strong background, both on the business as well as on
19 the environmental side of forestry.

20 It's my general understanding that sound forest
21 management does include some use of cutting of trees. And that
22 in many situations, simply leaving a forest alone is not the
23 best way to manage for its health.

24 SENATOR LEWIS: One of the components of Assembly
25 Bill 1890 was giving the renewable energy community \$540 million
26 over a five-year period to foster renewable energy technologies.

27 In a competitive market place, do you think state
28 ratepayers should be subsidizing any kind of energy technology?

1 MS. NICHOLS: Well, that's a broad question.

2 I think subsidies are sometimes in the eye of the
3 beholder. I'm certainly very much in favor of the state
4 spending money to encourage private expenditures in the area of
5 research and development, demonstration of new technologies
6 where needed, and in some situations, helping to create a market
7 for those new technologies can be the best way to get them
8 going.

9 That particular fund, as I understand it, was
10 part of a settlement that came about during the legislation that
11 deregulated the electric industry. And when programs that the
12 utilities had had in place were being effectively dismantled or
13 ended as part of the deregulatory process, that this fund was
14 created to find a way to maintain some of the momentum towards
15 alternatives that was going on at the time.

16 So, I think of it as a one-time program and not
17 necessarily something that would be a permanent feature of the
18 way we regulate energy.

19 CHAIRMAN BURTON: Senator Hughes.

20 SENATOR HUGHES: Good morning. I'd like to ask
21 you, Ms. Nichols, what are your plans? I heard in your opening
22 statement, you mentioned urban park development. I'd like to
23 know what are your plans in that area, and why are you going to
24 urban park development? Where is the money going to come from?
25 What will this do for California?

26 MS. NICHOLS: Senator Hughes, a couple of issues
27 there. First of all, the state already owns considerable
28 amounts of land in urban areas, some of which we manage ourself,

1 and a lot of which is managed through joint agreements with
2 local agencies.

3 I've heard many complaints, and I, myself, when I
4 was a local park commissioner in the City of Los Angeles,
5 experienced the fact that the state isn't always doing what
6 seems to be its share in terms of maintaining those parks. So,
7 there's an issue about whether the state is properly maintaining
8 the facilities that we already own.

9 There are also areas, and you and I have talked
10 about the Baldwin Hills area in Los Angeles, where there are
11 areas which today are industrial sites. In the case of Baldwin
12 Hills, it's an oil drill in the area.

13 SENATOR HUGHES: Yes, and the Kenny Hahn Park is
14 located there.

15 Would you tell the Committee what your plans are,
16 because we've got a lot of oil being pumped there, and I think
17 they might be interested.

18 MS. NICHOLS: The Baldwin Hills area in West Los
19 Angeles is a two-square-mile area, a small portion of which is a
20 state park, the Kenneth Hahn State Park, which has been
21 landscaped and developed as a recreational area with a lake
22 that's actually stocked with trout. It's an extremely popular,
23 well-used park.

24 But the surrounding area, which is now leased for
25 oil development, and is still being actively produced with steam
26 flooding, is an area which is going to be eventually finished as
27 an oil field. It's already some declining value in terms of the
28 production.

1 And the hope is that we can assemble sufficient
2 interest on the part of local jurisdictions in the state and
3 even federal agencies to gradually purchase the whole area,
4 which would be the largest site anywhere were in the western
5 part of the L.A. Basin, and make it available to the public for
6 recreation.

7 It is an area which is very underserved by
8 parks. It's an area that has a mixture of middle-class, working
9 class, and some upper-class residents around it. And there's a
10 tremendous interest, I think, growing on the part of a number of
11 different agencies in finding a way to put a park together
12 there.

13 I see our Agency, through the Division of Oil and
14 Gas, the Coastal Conservancy, which is adjacent, and others
15 being able to play a leadership role in helping to put this
16 program together, but it will be a long-term effort.

17 SENATOR HUGHES: It sounds very exciting to be
18 able to announce something like that to my community, who has no
19 access to any decent parks.

20 CHAIRMAN BURTON: Teresa Hughes State Park.

21 SENATOR HUGHES: No, it's already Kenny Hahn
22 State Park. No way. I don't want a park named after me. I
23 want the capital named after me.

24 [Laughter.]

25 SENATOR HUGHES: The last thing I want to mention
26 to you is the fishing industry, and the fact that some 50 years
27 ago, we were really high in the production of fish, and our
28 catch is just 9.7 percent of the national total, not accounting

1 for Alaska and Hawaii.

2 What are we going to do, or are you going to do
3 to see that our fishing industry is revitalized, if anything?

4 MS. NICHOLS: Yes, thank you for the question.

5 Senator, the collapse of fisheries in this
6 country and around the world is a serious international concern,
7 and it's a concern for the health and well being of the people
8 of this planet.

9 We in California do have a role to play because
10 of our extensive stretch of coastline and the fisheries that we
11 once supported and perhaps could support again. And there are a
12 number of areas in which practices in the past, some of our
13 degradation of habitat in the marine environment, have clearly
14 played a role in the loss of fishing resources and of economic
15 health to that industry and to our state as a whole.

16 Thanks to some legislation passed last year, the
17 Department of Fish and Game has a program to implement which
18 involves doing surveys, and benchmarking, and studies, and
19 developing plans, which we are to bring back to the Legislature
20 in that area to try to see what the state can do. We already
21 know that in the area of watershed management, loss of beaches
22 and erosion, fallout of toxic chemicals both in the air and from
23 water, there are programs that we should be implementing. These
24 are laws that are already on the books that are not being
25 adequately enforced.

26 So, we've got a lot to do in that area, and then
27 we need to do some more science to establish what the next
28 stages should be.

1 SENATOR HUGHES: Thank you.

2 CHAIRMAN BURTON: Senator Baca, then Senator
3 Knight.

4 SENATOR BACA: Thank you.

5 A couple of questions. The Legislative Analysts
6 reports that the maintenance need in the state parks have been
7 underfunded since the early 1980s.

8 What do you think should be done to address this
9 problem?

10 MS. NICHOLS: Senator, we have asked for
11 additional resources in the Governor budget, and I believe that
12 if the receipts come in as we're hoping, that the maintenance in
13 the parks would be the first item in line for an augmentation in
14 my Agency because that backlog is so severe.

15 Looking towards the future, in the budget the
16 Governor asked me to evaluate the potential for a park bond and
17 the need for such a bond. I've been working with the Parks
18 Department as well as other departments in our Agency and in
19 Cal-EPA to identify what items are to be included in a broad
20 resources bond.

21 Again, the capital facilities in the parks,
22 buildings as well as trails, are areas that I think would be
23 appropriate to look at for bond funding as well.

24 SENATOR BACA: Thank you.

25 The next one, Mary, as you know in my area, the
26 Inland Empire, we've been infested with the sand high loving fly
27 in the area that has cost millions and millions of dollars. We
28 have the kangaroo rat in the immediate area.

1 What do you propose in addressing the problem
2 that has really affected a lot of growth in the Inland Empire on
3 these two endangered species that are in there, the fly and the
4 kangaroo rat?

5 SENATOR KNIGHT: Fly swatter.

6 SENATOR BACA: I tried the fly swatter.

7 [Laughter.]

8 MS. NICHOLS: Senator, I'm not familiar with that
9 particular issue about the fly, but I know something about the
10 history on the kangaroo rats, and some of the problems that have
11 been caused to local government and to developers in trying to
12 deal with those issues.

13 I guess maybe the best answer would be to say,
14 first of all, on the specifics of that, I'd be happy to look
15 into what there is that can be done in your particular district.

16 On a broader issue, however, with the dozens and
17 dozens of species that we have that are listed in California, I
18 think that the approach that was begun under the Wilson
19 administration to developing multi-species habitat conservation
20 plans, and which has been a hallmark of the Clinton
21 administration's approach to administering the federal
22 Endangered Species Act, is one that we need to pursue here.

23 We need to be looking at the role that government
24 can play to help to assemble areas that are large enough in
25 scale so that they can serve as habitat for a variety of
26 different species, and so that we don't have to be dealing on a
27 parcel-by-parcel, permit-by-permit basis with people who want to
28 develop their land, and trying to, in effect, extract small bits

1 of land for the protection of endangered species. We know that
2 that's not the best way to deal with the species or the habitat,
3 and we also know that it's very time consuming and costly and
4 burdensome to the private sector.

5 So, we need to be working at a regional level
6 with government and the private sector to look at where there's
7 habitat that's needed, and how to assemble it through a
8 combination of public and private methods so that we can set
9 aside a sufficient area so that we protect the biodiversity,
10 which is important to California economically, as well as for
11 tourism, and for our long-term future, but at the same time, not
12 have to go through the kind of species-by-species programs that,
13 I gather, is what happens with this fly.

14 SENATOR BACA: Thank you. I appreciate you
15 taking the regional approach in looking at our area, and I hope
16 that you address that, because that's one area in my area that
17 I'm very much concerned with, especially with the fly right now
18 that's right next to a beautiful hospital in the immediate area,
19 and we've got a place that's in that area that has all kinds of
20 weeds, and it looks terrible. Yet, this fly only comes out once
21 a year or twice a year. It's because wind is blowing, it's
22 coming to that immediate area.

23 I think we need to address that and look at that
24 as well as the kangaroo rat. So, I do appreciate the fact that
25 you'll be looking into it.

26 SENATOR KNIGHT: It's funny about a fly. We
27 spend a whole lot of time about a fly.

28 CHAIRMAN BURTON: That's how you made your name.

1 [Laughter.]

2 SENATOR KNIGHT: I thought that's what we had fly
3 swatters for.

4 Some years ago, well, at the present time, the
5 state ships their low-level radioactive waste to South
6 Carolina. Some 20 years ago, the federal government said,
7 "States, you can get together, form compacts and develop a
8 low-level radioactive waste dump, if you will."

9 We did that, or we tried to, and it was in the
10 form of Ward Valley. There's been a lot of money spent in that
11 arena, some 80 million by a company, some 15 million by the
12 state, and dollars by local and private industry.

13 We still don't have one. What are your plans, if
14 any, to develop one, or to come up with another site, or to
15 develop Ward Valley?

16 MS. NICHOLS: Senator, I'm delighted to be able
17 to tell you that the Resources Agency is not the responsible
18 agency for dealing with this problem. It falls under the
19 jurisdiction of the Department of Health Services.

20 So, I can share on my colleague from a distance,
21 but I'm not actually involved in that case or in the decision.

22 SENATOR KNIGHT: Not at all? I stand corrected,
23 if that's the case.

24 SENATOR LEWIS: What about the role of the State
25 Lands Commission with Ward Valley?

26 MS. NICHOLS: Well, the State Lands Commission,
27 although they are technically a part of the Resources Agency, as
28 you know, is governed by a group of Constitutional Officers.

1 They don't ask me what there policies ought to be.

2 SENATOR LEWIS: What role do you play with the
3 State Lands Commission?

4 MS. NICHOLS: I don't have a role. I'm not on
5 the State Lands Commission. They are technically housed in the
6 Resources Agency, but I don't have a seat on it or an
7 appointment on it.

8 SENATOR HUGHES: Want to put her on it?

9 [Laughter.]

10 MS. NICHOLS: I'd definitely be open to
11 discussing that.

12 SENATOR KNIGHT: Well, what do you think about
13 that anyway?

14 [Laughter.]

15 MS. NICHOLS: Do you really want to know what I
16 think about low-level waste?

17 I think a court has now ruled that the federal
18 government doesn't have to turn it over, and the state is not to
19 pursue it.

20 May I say something, Senator, about low-level
21 waste, which is just this.

22 When I was at EPA, I did have some responsibility
23 for the finding of sites is for high-level nuclear waste. We
24 were successful in permitting a site. It's in New Mexico. It's
25 in the salt caverns near Carlsbad, New Mexico. That site did
26 come on line, and it is now actually open for waste to be
27 delivered from federal facilities all over the country.

28 I think there is a problem with waste disposal,

1 and there do need to be sites for disposal.

2 SENATOR KNIGHT: We still need a low-level waste
3 site.

4 CHAIRMAN BURTON: Antelope Valley.

5 [Laughter.]

6 SENATOR LEWIS: Treasure Island.

7 [Laughter.]

8 CHAIRMAN BURTON: As you go across the bridge,
9 you'd see this wonderful glow.

10 [Laughter.]

11 CHAIRMAN BURTON: Senator Knight?

12 SENATOR KNIGHT: I'm through.

13 CHAIRMAN BURTON: Just a couple.

14 You talked when the Governor talked to you about
15 a broad resources bond, does that lead one to believe that there
16 may be a combination, at least in his mind, of parks and water?

17 MS. NICHOLS: I certainly think that's possible.
18 As you know, the Commission I'm building for the 21st Century is
19 examining this whole issue very broadly. There's a resources
20 group on that Commission. They're meeting in my office this
21 afternoon, actually, and I am laying out a list of potential
22 areas. That does include both water and parks.

23 CHAIRMAN BURTON: What happened with, just to
24 deal with a couple of things that Senator Lewis asked.

25 As I understand it, the amended complaint, that
26 issue lost in court; right? What happened to that?

27 MS. NICHOLS: Are you speaking of the water case.

28 CHAIRMAN BURTON: The water deal.

1 MS. NICHOLS: Yes.

2 CHAIRMAN BURTON: I thought I read that the court
3 rejected something?

4 MS. NICHOLS: They rejected a motion for a TRO by
5 the federal water contractors.

6 CHAIRMAN BURTON: Then just, at least in my
7 judgement, I think one of the reasons that the Governor talked
8 about upping the surveillance, or whatever it will, in that
9 region that included the Headwaters was the experience that the
10 Wilson administration had with Herwitz's company as we were
11 negotiating the Headwaters bill. We would be negotiating, and
12 all of a sudden, they'd be in violation of the state forestry
13 laws.

14 I was down there with George Dunn. I mentioned
15 it to George; he mentioned it to Governor Wilson, and he almost
16 went.

17 So, I think the deal at that time was that there
18 was just a great concern that if a deal wasn't struck, that the
19 company would be going huckelty-buck as it was to that area.

20 I think you have members of your family you
21 wanted to introduce?

22 MS. NICHOLS: Thank you, Senator Burton. I just
23 wanted to introduce to the Committee, since they have traveled
24 to get here, my husband, John Daum, and my son, Nick Daum. My
25 home is in Los Angeles, and I commute up here during the week.
26 And my son Nick is a graduate student at UC Berkeley.

27 Thank you.

28 CHAIRMAN BURTON: Witnesses in support.

1 MR. ROSS: Mr. Chairman, Members, Tommy Ross on
2 behalf of John Bryce, Chairman and CEO of Southern California.

3 We believe Ms. Nichols would provide a balanced
4 approach to her administration of her agency. We believe she's
5 a person of character and sound and balanced judgment.

6 And on a personal level, I just want you to know
7 that I enjoy working with her and look forward to working with
8 her throughout her tenure as Secretary of Resources.

9 And we encourage your support of her
10 appointment.

11 MR. SMUTNEY-JONES: Thank you, Mr. President,
12 Members of the Committee, my name is Jan Smutney-Jones. I
13 represent the California Independent Energy Producers
14 Association. We develop and operate power plants throughout
15 California.

16 We believe Ms. Nichols brings with her extensive
17 knowledge and experience with respect to both natural resources
18 and energy. We believe that she brings with her a sense of
19 leadership from the standpoint of being able to make hard
20 decisions and take accountability for them. We believe she's
21 fundamentally fair in terms of the ability to listen to both
22 sides and understand both sides of an issue.

23 There's extensive work that continues to need to
24 be done in California. As you know, we're going to see change
25 right now with many of the utility resources being now operated
26 by independent companies. We've got about 15,000 megawatts of
27 new generation being built in California, including 500
28 megawatts of new renewable that will be employing Californians

1 and helping meet our various air quality standards.

2 We believe she's very, very well qualified for
3 this position. We would encourage your support.

4 Thank you.

5 MR. PAULI: Thank you, Mr. Chairman, Members of
6 the Committee. I'm Bill Pauli. I'm a farmer from over in
7 Mendocino County, and I'm President of the California Farm
8 Bureau.

9 I'm very pleased to be here today to support the
10 confirmation of Mary Nichols. I've had an opportunity on a
11 number of occasions to meet with Secretary Nichols, and I've had
12 extensive discussions on a wide range of issues. I find her
13 fair, articulate, intelligent, with a deep knowledge on a
14 variety of issues. We would look forward to working her, and we
15 would ask your confirmation of her as Secretary.

16 Thank you.

17 CHAIRMAN BURTON: When did you have your first
18 meeting her? After her appointment?

19 MR. PAULI: Yes, sir.

20 CHAIRMAN BURTON: Did your opinion kind change
21 from when you read it to now?

22 MR. PAULI: No.

23 CHAIRMAN BURTON: In other words, when she was
24 appointed, you felt alright about her.

25 MR. PAULI: Yes, I did.

26 CHAIRMAN BURTON: Okay.

27 MR. PAULI: And I still feel fine about it.

28 CHAIRMAN BURTON: I understand that.

1 I know some people said when they first read it,
2 they kind of had a coronary. After they met with her, they
3 found that she would do a good job, and that their
4 preconceptions were wrong.

5 MR. PAULI: I think, like a number of other
6 people, I managed to maintain an open mind until I've had an
7 opportunity to meet.

8 CHAIRMAN BURTON: You'd never make it on this
9 Committee.

10 [Laughter.]

11 MR. PAULI: I'll look forward to the opportunity
12 some day.

13 MR. CRAVEN: Thank you, Mr. Chairman, Bill Craven
14 here on behalf of Sierra Club California.

15 We supported the nomination of Mary Nichols. We
16 strongly support her confirmation. She's extremely well
17 qualified.

18 We anticipate that she will provide outstanding
19 leadership on a wide variety of natural resource issues over her
20 term. Again, we support her confirmation.

21 Thank you.

22 MR. GUALCO: Mr. Chair and Members, Jack Gualco
23 on behalf of the California Council for Environmental Economic
24 Balance.

25 Like the Farm Bureau, we did not check into the
26 Coronary Unit after we heard of her appointment. We've had the
27 good fortune of working closely with the Secretary in her
28 previous incarnation here at the state, and also throughout her

1 career at US EPA.

2 She has been fair. She's been at times tough, but
3 we've always respected the relationship. And given the nature
4 of a lot of the natural resource management debate right now in
5 California, where the federal government plays a very large
6 role, Secretary Nichols' experience at US EPA and understanding
7 the federal way of doing things will be of tremendous help as
8 California tries to work a lot of the tough water, natural
9 resource issues through.

10 So, we're very enthusiastic about Secretary
11 Nichols' appointment and recommend her to you without any
12 qualification.

13 Thank you.

14 MR. WEINER: Peter Weiner, Paul, Hastings,
15 Janofsky & Walker. We represent renewable energy producers.

16 I'm also personally a member of the State Parks
17 Foundation Board of Directors, and I'm concerned with both
18 maintenance of existing parks and acquisition of new parks,
19 especially in urban areas.

20 I've been a friend and colleague of Mary for over
21 30 years, since law school, and give her my strong support.
22 I've served with her in the Brown administration. I've watched
23 her from afar while she's been at EPA. She is off-the-chart
24 smart. She uses her smarts to listen, to get together with
25 other people, to reach consensual solutions, to act decisively,
26 and to act well.

27 I urge your confirmation.

28 MR. LEATHERS: Mr. Chairman and Members of the

1 Committee, Pat Leathers on behalf of the Wilson Group, Sun Made
2 Growers of California, Southern California Rock Products
3 Association, and others. But particularly myself and my father,
4 Jim Leathers, who served with Mary some 20 years ago on the
5 State Air Board.

6 Mary wanted to know more about agriculture. She
7 came out to the Leathers' farm. She drove a harvester, a lazer
8 leveler. I don't think there were any accidents.

9 She's terrific. She's open. She has the highest
10 level of integrity and honesty, and we are proud to consider her
11 a friend.

12 Thank you.

13 MR. BAKER: Mr. Chairman and Members, Steve Baker
14 with Aaron Read and Associates, representing the CDF fire
15 fighters and the California Association of Professional
16 Scientists.

17 Again, we have a lot of the employees that are in
18 this Agency, and they are really looking forward to having
19 Secretary Nichols there, providing leadership and working with
20 the employees to implement the state's laws.

21 Thank you.

22 MS. NOTTHOFF: Ann Notthoff with the Natural
23 Resources Defense Council.

24 I had the pleasure of working with Mary as a
25 colleague when we were both working for NRDC. She in Los
26 Angeles, me in San Francisco. We worked on many issues
27 together.

28 I personally admire the grace with which she

1 approaches issues, and I'm very pleased to support her
2 confirmation.

3 MR. MACOLA: Mr. Chairman, Stephen Macola on
4 behalf of Moulden Nigel Water District in support.

5 I might also add, I had the privilege of serving
6 this body as the Staff Director to the Senate Committee on
7 Agriculture and Water Resources for 20 years.

8 I personally recommend Mary without
9 qualification.

10 MR. JUDD: Mr. Chairman, Bob Judd of the
11 California Biomass Energy Alliance.

12 In light of Secretary Nichols' consistent record
13 of achievement and integrity, her insight into the relationship
14 between federal and state issues that we'll face here, we offer
15 her our full endorsement.

16 MR. HERBST: Good morning, Mr. President,
17 Senators. My name is David Herbst. I am Vice President of
18 Playa Vista, a major infill real estate development in West Los
19 Angeles.

20 I'm here today to strongly encourage you to
21 confirm Mary Nichols as Secretary of the Resources Agency. Mary
22 has long demonstrated in her various careers with NRDC, EPA, and
23 Environment Now not only a commitment to environmental and
24 resource protection, but also a fairness an even-handedness to
25 all parties involved in an issue. This judicial temperament has
26 been particularly evident with her involvement with us at Playa
27 Vista.

28 The qualities she exhibited in our interactions

1 with her -- intelligence, open-mindedness, fairness, and a
2 willingness to listen to both sides of an issue -- are the very
3 same qualities that we believe will make her an outstanding
4 Resources Agency Secretary.

5 We look forward to Mary's confirmation, and her
6 ongoing resource protection leadership in California.

7 Thank you.

8 MR. ALEMAN: Mr. President, Senators, my name is
9 Arturo Aleman, and I represent several organizations, Latino
10 organizations from throughout the state, primarily the
11 California Chicano/Latino Democratic Caucus, whom I'm sure
12 you're all very much aware of, and also the National Hispanic
13 Recreation Association, which is an association of managers and
14 administrators in the field of recreation. And also, of course,
15 the National Hispanic Energy and Environmental Conference, which
16 is going to be held in San Jose this month.

17 I'd like to extend an invitation to that.

18 We'd like to, as a group, request that you
19 confirm Mary Nichols as the Resources Secretary. We very much
20 endorse her. We have met with her, and we hope and understand
21 that she will be bringing greater diversity to an agency that
22 very much needs it. We look forward to your confirmation.

23 Thank you.

24 MS. SCHMIECHEN: Mr. Chair and Committee Members,
25 Kathie Schmiechen, National Audubon Society.

26 We urge your confirmation vote. We're very happy
27 with how Ms. Nichols has already reached out to National Audubon
28 and other groups so far.

1 Thank you.

2 MS. DINNO: Good morning. Rachel Dinno with the
3 Planning and Conservation League, thrilled and honored to be
4 here in support of, hopefully, Secretary Nichols today.

5 We need her leadership for the restoration land
6 enhancement of our's state resources. We urge your approval.

7 Thank you.

8 MR. BROWN: Thank you, Mr. Chairman and Members
9 of the Committee, Corey Brown, Trust for Public Land, strongly
10 in support.

11 When we established our Los Angeles office to
12 help address some of the issues Senator Hughes mentioned in
13 terms of bringing parks to our urban areas, especially our
14 underserved areas, we very much appreciated Ms. Nichols' counsel
15 and her support.

16 She has a great vision for California. We think
17 it'll help our cities; it will help our rural areas greatly. We
18 urge your confirmation.

19 MR. RICHARD: Mr. Chairman and Members, Dan
20 Richard, PG&E. I'm a long-time friend of Mary Nichols. I
21 admire her commitment to public service.

22 I can't resist saying that I didn't a coronary
23 when I read of her appointment, but my heart skipped a beat. I
24 thought it was a terrific appointment.

25 MR. WHITE: Mr. Chair and Members, John White
26 with the Center for Energy Efficiency and Renewable
27 Technologies, which is a coalition of environmental groups and
28 renewable and energy efficiency companies.

1 Mary is a former board member of our organization
2 and worked closely with us in trying to recapture California's
3 leadership on renewable energy and clean power. We look forward
4 to working with her in her new capacity as the Secretary of
5 Resources.

6 SENATOR BACA: Mr. Chair, I move her nomination.

7 CHAIRMAN BURTON: Witnesses in opposition.

8 Moved by Senator Baca.

9 I wanted to ask one question, if I could.

10 There was a question that the Republicans had.
11 It's the fact about the \$540 million to foster renewable energy
12 technology that was in the energy dereg. bill.

13 I go back to during the Brown administration,
14 where I basically thought a lot of the wind, a lot of the solar,
15 and a lot of stuff was absolutely tax ripoffs and didn't do
16 much.

17 I mean, I'm just wondering if there will be a
18 tighter hold on this. I don't know if you're if one who knows
19 how this goes out. But I mean, some of the wind stuff was an
20 absolute scandal as far as the tax benefits that went in. Some
21 of the solar stuff I kind of felt the same way. I think studies
22 indicated that the amount of money that went out for the benefit
23 that came in was that.

24 So, I would just hope, and I guess it's more of a
25 comment than a question, but that we have a very tighter hold on
26 who gets the benefits for this, and that society gets the
27 benefit back for the burden they're doing, because this money's
28 coming out of somebody's pocket.

1 Moved by Senator Baca. Call the roll.

2 SENATOR LEWIS: Mr. Chairman, if I could just
3 make a quick comment.

4 Up until today I have voted yes on all the
5 gubernatorial appointments simply because I think a governor
6 should have the right to choose the cabinet of his liking.

7 Ms. Nichols is intelligent. She's articulate.

8 But despite that, I have grave concerns about
9 what kind of regulations, and perhaps regulatory overkill, may
10 take place on her watch.

11 Today I'm going to vote no, but I certainly hope
12 that Ms. Nichols will prove that my no vote in the future was
13 wrong thing to do.

14 CHAIRMAN BURTON: Call the roll.

15 SECRETARY WEBB: Senator Baca.

16 SENATOR BACA: Aye.

17 SECRETARY WEBB: Baca Aye. Senator Hughes.

18 SENATOR HUGHES: Aye.

19 SECRETARY WEBB: Hughes Aye. Senator Knight.
20 Senator Lewis.

21 SENATOR LEWIS: No.

22 SECRETARY WEBB: Lewis No. Senator Burton.

23 CHAIRMAN BURTON: Aye.

24 SECRETARY WEBB: Burton Aye. Three to one.

25 CHAIRMAN BURTON: Congratulations, Mary.

26 MS. NICHOLS: Thank you.

27 [Thereupon this portion of the
28 Senate Rules Committee hearing was

terminated at approximately 11:06 A.M.]

--ooOoo--


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I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 16th day of April, 1999.


EVELYN J. MIZAK
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APPEARANCESMEMBERS PRESENT

SENATOR JOHN BURTON, Chair

SENATOR JOHN LEWIS, Vice Chair

SENATOR JOE BACA

SENATOR WILLIAM KNIGHT

MEMBERS ABSENT

SENATOR TERESA HUGHES

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

WADE TEASDALE, Consultant to SENATOR LEWIS

ANDY PUGNO, Consultant to SENATOR KNIGHT

MANNY HERNANDEZ, Consultant to SENATOR BACA

ALSO PRESENT

ELIAS S. CORTEZ, Director
Department of Information Technology

ASSEMBLYMAN JOHN DUTRA

BENNY DIAZ, State Membership Chair
League of United Latin American Citizens (LULAC)

MARIA GUTIERREZ, Local Youth Director
LULAC

KARIME SANCHEZ BRADVICA, Chair
USC Mexican-American Alumni Association

EDMUNDO LOPEZ, President
Hispanic Contractors Association

1 FRANK RAMIREZ, Representative of National Commander
2 American G.I. Forum

3 GRISELDA BARAJAS
4 U.S. Hispanic Chamber of Commerce

5 JOSE PEREZ
6 California Hispanic Chambers of Commerce
7 Sacramento Hispanic Chamber of Commerce

8 ALAN COX, National Director, Government Services
9 Government Technology

10 JIM KONANTZ, Director of Instructional Technology
11 Los Angeles Unified School District

12 Jim BRAINARD, Chief Information Officer
13 City of Los Angeles
14 Department of Water and Power

15 ROGER TALAMONTEZ, President and CEO
16 San Diego Data Processing Corporation
17 City of San Diego

18 JOHN FREEDMAN, Council Member
19 City of Redlands
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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: Elias Cortez, Director of Information Technology.

CHAIRMAN BURTON: Senator Baca.

SENATOR BACA: Thank you, Mr. Chairman, Members.

I'm pleased to introduce one of my constituents, Elias Cortez, who has been appointed to lead the Department of Information Technology at a time when leadership is truly needed.

Elias is dedicated, very capable, result oriented technology leader. Previously he served as Chief Information Officer for San Bernardino County. While at the County, he ensured that the department was focused on meeting the Y2K challenge by encouraging and collaborating internally and externally.

He has also made sure that the community was informed on the subject by holding outreach forums, and working, and informing the community, which the community really appreciated in the Inland Empire, because he was truly reaching out. And that's part of what he's done through his leadership and his vision to assure that we're moving in the right direction.

He is dedicated to the community, and his focus is result oriented. I think that we believe we have made an excellent choice in having Elias Cortez lead us into the state's technology department into the 21st Century.

I'd like to introduce Elias Cortez so that,

1 hopefully, the Committee will confirm his appointment, which I
2 think is a positive direction in leading us into the 21st
3 Century, Elias Cortez.

4 MR. CORTEZ: Thank you, Senator Baca.

5 Honorable Chairman, honorable Senators, I thank
6 you for this opportunity to come before in this confirmation
7 hearing. I feel privileged and honored to be considered for the
8 State Chief Information Officer position and appointment for the
9 State of California.

10 I'm also proud to have with me today my wife,
11 Patricia, and daughters Raquel, Elisa, and Salina with me
12 today.

13 In addition, I am grateful and thankful for my
14 friends that are joining us today for joining us in this
15 commitment to be here in support of my efforts.

16 I'd like to briefly share with you that I am
17 proud to be a Californian. I was born in Southern California,
18 born and raised. I think I've lived throughout the different
19 cities and communities of this state, including Tulare, all the
20 way down to San Diego.

21 I'm also proud to have attended USC and am
22 involved in the community, not only through my school, but
23 involved in the community in San Bernardino. I'm a part member
24 of the Board for Masters of Technology at the Redlands
25 University. So, I'm very involved with education initiatives,
26 and also involved with government and local government support.

27 My professional background is quite expansive.
28 I've been grateful and honored to have had the opportunity to

1 work all the way from the technical applications development
2 positions and work my way up through middle management and upper
3 management.

4 I've led major information technology initiatives
5 within institutions such as L.A. Unified School District, in
6 which we established one of the largest educational Internet
7 access for students, administrators and teachers. We had some
8 major successful accomplishments also in geographic information
9 systems, which is a very important tool for analyzing government
10 resources and distribution of government services to the
11 community.

12 I've also had the gracious opportunity to be a
13 chief information officer, similar to the current position, but
14 a different scope and scale at the County of San Bernardino.
15 We've got great support, great leadership in that county, and we
16 did a very good job in challenging and dealing with the Y2K
17 issues.

18 One of my proudest achievements throughout my
19 background in this information technology is that wherever I've
20 gone, wherever I've progressed, I build solid teams of people.
21 I invest heavily in training, and management, and strategy, and
22 visionary issues of implementing new technologies to solving
23 government challenges and problems.

24 I've been also proud to stay involved with other
25 entities that relate to my personal career, such as Hispanic
26 professional engineering organizations within the community.

27 And I really am proud to be here today and have
28 the opportunity to take on this challenge. I believe it's a

1 formidable challenge, but it's a manageable challenge. I'm very
2 happy to see that the people that I've met with are extremely
3 professional, and there are quite a few skills and professionals
4 in this organization in the state that have done a very good job
5 to date in working on this whole Year 2000 challenge.

6 I think with the added value that I bring to the
7 organization, its leadership, focus, prioritization, and really
8 a global perspective on all the issues, not only internally
9 within state departments, but how we distribute our services to
10 the community, and I believe that's an asset that I bring to the
11 table, especially in the area of the Year 2000 challenge.

12 We have a lot of interface issues with counties
13 and local government. And I've been working aggressively in
14 making sure that we not only manage and streamline processes
15 within the state to deliver those services, but we also get out
16 there and reach within the community and get involved with the
17 interface issues between counties and governments so we can
18 deliver the services to the community into the next millennium.

19 I've been focused not only on internal issues and
20 challenges, but also external issues relative to our state
21 services that we provide. And I've been working aggressively
22 with organizations such as CSAC, and League of Cities and others
23 to embark on the challenge that we need to get executive
24 management support globally within our state to deal with this
25 Year 2000 challenge.

26 I've met with the CIOs, I meet with agency CIOs
27 within our state departments. I meet with them bi-weekly. We've
28 delivered to them through the Department of Information

1 Technology strategy. We've delivered approaches. We've
2 delivered methodology. We're delivering basic leadership in the
3 area of what our priorities are to meet this challenge.

4 Our outreach efforts will be constant. Our
5 awareness program will increase. We're doing what it takes to
6 get the job done. And we expect to manage through any
7 challenges or issues that come up via the process that we're
8 establishing, which we call Business Continuity Planning. So,
9 if there are any challenges or any hiccups going into the next
10 millennium, we are currently aggressively pursuing that each
11 department, each director, each CIO establish and develop a
12 contingency plan for those issues.

13 Again, I thank you for this opportunity to
14 present to you. If approved by the Rules Committee today, I
15 will continue to focus and be diligent and dedicate myself
16 totally to delivering the best technology management to our
17 state.

18 Thank you.

19 CHAIRMAN BURTON: Thank you.

20 Just briefly on the ever present, at least in
21 people's minds, the Y2K problem. The State Auditor seemed to be
22 on lot more concerned about what was going on than the report of
23 your predecessor.

24 I wonder just briefly, do you think you're on
25 target? Do you need some more help? What do we need to make
26 sure that this either works as perfectly as it can, or at least
27 so there's not a disaster? Do you think that everything's on
28 target?

1 One further thing. Which areas, which
2 governmental agencies do you think face the most problems?

3 MR. CORTEZ: Thank you.

4 First and foremost, the Y2K Executive Order
5 speaks to the challenge before us and the environment that we
6 have to deliver the solutions to meet these Y2K issues and
7 challenges.

8 It's extremely important to note that a quote
9 that I read in college was, "No man is an island upon himself."
10 So, Eli's not going to solve this Y2K challenge.

11 CHAIRMAN BURTON: Do you know who said that? John
12 Donne.

13 MR. CORTEZ: Therefore, I believe that
14 establishing a team to meet these challenges is first and
15 foremost critical. I've aggressively pursued the support of my
16 peers, secretary agencies, directors and CIOs to focus on what
17 is left to be done, and immediately in parallel, established
18 business continuity plans to deal with any challenges that might
19 be unexpected.

20 We do have an opportunity to meet the challenges
21 of all mission critical systems. We have the resources within
22 our organization to challenge those and to meet those
23 challenges.

24 Again, it has to do with refocusing our
25 priorities, and we are extremely aggressive about
26 re-establishing that priority.

27 One of the challenges when I came on, on my first
28 day of February 17th, I clearly remember that day when the DOIT

1 report was presented in the afternoon. It seemed like a
2 topsy-turvy presentation opposite reporting in the afternoon.
3 The bottom line, as I stated then, is that the reporting that
4 was going on previously was soft reporting. So, if I was in
5 Department A, you could ask me how I was doing. And if I was
6 depending on future funding, I'd tell you I was doing a great
7 job.

8 Bottom line, though, what we've done is, we've
9 re-engineered the way we're handling this project. We've
10 established a process which we call Detailed Department
11 Assessment Analysis. We're analyzing exactly where each
12 department is. We're analyzing what the mission critical issues
13 are. We're immediately providing resolution of services and
14 vendors and resources within the state first. If we have to
15 out-source for specialty support, then that would be next. And
16 we are working in parallel in establishing a contingency plan
17 with the Office of Emergency Services.

18 CHAIRMAN BURTON: So, what do you think?

19 MR. CORTEZ: I feel comfortable that we're going
20 to meet the challenges of critical systems.

21 ASSEMBLYMAN DUTRA: Thank you, Chairman Burton,
22 Members of the Committee. My name is Assembly Member Dutra.

23 I'm Chair of Info. Technology in the Assembly,
24 and I've had the privilege and opportunity to work very closely
25 with Mr. Cortez in recent months. He has contributed enormously
26 to our efforts with respect to a Y2K bill that was triple
27 referred, that just got out of all three committees with only
28 one unfavorable vote.

1 He's participated in the participation of that
2 bill. He, in these hearings, has evidenced a level of
3 capability and management skill to me that is very, very
4 impressive.

5 And I do have business experience before coming
6 to the Assembly.

7 There is no doubt in my mind that he would
8 contribute enormously to the state as Director of the Department
9 of Information Technology. I highly encourage his
10 confirmation. I certainly support it.

11 CHAIRMAN BURTON: Thank you very much.

12 Senator Lewis.

13 SENATOR LEWIS: Good morning, Mr. Cortez.

14 When Dallas Jones was before this Committee, the
15 Director of OES, he seemed rather skeptical of the Y2K problem.
16 In fact, he said that the biggest problem associated with Y2K
17 would be the unintended consequences of people taking
18 preventative actions.

19 Do you share that general belief?

20 MR. CORTEZ: My belief is, within the state,
21 within the leadership of this administration, within the
22 leadership of the secretary agencies, there is full focus on the
23 Y2K challenge, the priorities, the escalation of resources that
24 we're going to need to meet this challenge.

25 I strongly believe, and have worked with Dallas
26 jointly. We've had a very successful presentation recently
27 where we've invited a thousand different attendees to a
28 Conference here in Sacramento regarding business continuity

1 planning throughout the Y2K, and it included, happily, a lot of
2 community involvement, a lot of small business involvement, and
3 a lot of local government involvement.

4 I feel comfortable that we're going to meet this
5 challenge. I feel real comfortable in the area of other
6 organizations, such as the FAA having recent successful tests.
7 Other organizations, such as NERC have done very successful
8 tests in these areas.

9 So, I think a lot of what needs to be managed
10 over the next few months has to do with completing the tasks
11 that are mission critical priority. Get those done. In
12 parallel, establish business continuity plans to deal with any
13 challenges that might occur.

14 So, I believe in discussions that I've had with
15 Dallas Jones that he is focused on that, and he feels confident
16 that we're going to deliver this service.

17 SENATOR LEWIS: Let me kind of repeat the
18 question.

19 Do you believe that the number one problem
20 confronting the state dealing with Y2K is the unintended
21 consequences of people taking preventative action?

22 MR. CORTEZ: I believe --

23 SENATOR LEWIS: When Dallas Jones was before the
24 Committee, he said the biggest problem associated with Y2K would
25 be those problems associated with people rationing, I mean
26 accumulating, hoarding, and things like that.

27 Is that the biggest problem we face?

28 MR. CORTEZ: I think that's one of the problems.

1 I think the other challenges that we have that I've been very
2 focused on is management of impacts that might occur. So, for
3 example, in a normal year like last New Year's Eve, if you lost
4 power in a small community or whatever, they would say, well,
5 someone probably hit light pole and knocked it out, and there
6 goes the power for us. But if that happens in this window, in
7 this opportunity, somebody's going to blame that on Y2K, even
8 though someone might have just knocked out the power.

9 So, I believe that management of occurrences and
10 factual information is really the challenge that we have. I
11 believe that the hoarding isn't as big of a problem as it's been
12 portrayed. I believe that the community, through awareness
13 programs, is getting a better feel and understanding where
14 they're at, especially when you complete different tests that
15 impact the community, areas in power, light,
16 telecommunications.

17 I've met with these organizations, and I've been
18 meeting with them constantly about their plans. And through
19 their billing systems, they're promoting not only status of
20 their Y2K challenge, but appeasing the community, in that they
21 are going to receive light, that they are going to receive
22 power.

23 So, I truly believe that hoarding is not the
24 biggest problem. I think the biggest problem is understanding
25 that we've met the challenge.

26 SENATOR LEWIS: In the context of your position,
27 how do you define mission critical?

28 MR. CORTEZ: Mission critical systems.

1 SENATOR LEWIS: Mission critical service; I'm
2 sorry.

3 MR. CORTEZ: Mission critical services.

4 To us at the state, we've focused and define on
5 public safety, life and health. Anything that would impact the
6 delivery of those services.

7 We're not only looking at it from the perspective
8 of information systems and exchange of data, but we're looking
9 at it on how we deliver those services to the community.

10 For example, if you have Highway Patrol, we want
11 to make sure that the telecommunications channels that they have
12 through their 9-1-1 systems, through their telecommunications
13 systems, through their radio systems, are Y2K compliant. That
14 is the top priority for us.

15 So, we're focusing it from the perspective of
16 services that we deliver, and we're re-engineering that back to
17 the systems that we have to support those services.

18 SENATOR LEWIS: At this moment in time, what
19 state agencies would you say are the most behind?

20 MR. CORTEZ: Right now, we've done recent
21 assessments. I can't tell you over-all, but the recent
22 assessments that reflect the studies that we've done, we've
23 shown that they're fairly well along the way in areas such as
24 the main frames. Most of them have met that challenge, which is
25 typically the biggest area to deal with.

26 There are departments, such as -- the ones that
27 we've done are: DMV, Department of Health Services,
28 Corrections. In the area of the Department of Health Services,

1 Department of Social Services, we have concerns because there is
2 a direct correlation of delivery of services all the way through
3 the community through the county systems. One of the things
4 that I'm concerned about is that we need to enact immediately
5 support from the counties and the state in conjunction to deal
6 with the interface issues.

7 So, the challenges aren't really in the main
8 frame systems. They're in how we exchange data and services
9 between the state and the counties. I think that is the
10 challenge before us.

11 SENATOR LEWIS: Is there a particular state
12 agency that seems to be the farthest behind right now?

13 MR. CORTEZ: At this point, they're all
14 approximately 70 percent complete.

15 I think relative to focus, one of the recent
16 experiences that we had in certain departments, we had
17 experiences in which they did not have the expertise internally
18 to do imbedded chips, as an example.

19 But the good news in that area is, we're finding
20 that imbedded chips take a long time to go out and figure out,
21 and test each one, but the impact is very small. So, we feel
22 comfortable that we're going to meet those challenges, and we're
23 prioritizing with those departments.

24 SENATOR LEWIS: Thanks.

25 CHAIRMAN BURTON: Senator Knight then Baca.

26 SENATOR KNIGHT: Thank you, Mr. Chairman.

27 Just a little follow-up. There's been indication
28 that 75 percent of the programs have been Y2K compliant; there's

1 25 percent that aren't.

2 Of those 75 percent that have complied, and
3 you've indicated that CHP is one of those in their
4 communications and 9-1-1, have you simulated the Year 2000 and
5 tried to demonstrate that, in fact, they have been corrected?

6 MR. CORTEZ: Yes, that simulation is methodology
7 that most the state departments are using. We haven't found
8 one, and we are looking at that through our --

9 SENATOR KNIGHT: Has the CHP been simulated, and
10 does it work?

11 MR. CORTEZ: Yes. They're doing testing into the
12 Year 2000. They're emulating that testing, so they've done
13 that.

14 SENATOR KNIGHT: They have completed it?

15 MR. CORTEZ: I believe so, yes.

16 SENATOR KNIGHT: Of the 75 percent that are Y2K
17 compliant, how many of those have completed their simulation?

18 CHAIRMAN BURTON: Excuse me.

19 Senator Lewis has to go to E&R. He would like to
20 open the roll so he could recorded on this, and the Consent
21 Calendar.

22 SENATOR BACA: Move the nomination.

23 CHAIRMAN BURTON: Just open the roll for Senator
24 Lewis.

25 SECRETARY WEBB: Senator Lewis?

26 SENATOR LEWIS: Aye.

27 SECRETARY WEBB: Lewis Aye.

28 CHAIRMAN BURTON: Thank you, and the Consent

1 Calendar is already recorded.

2 SENATOR KNIGHT: I don't know whether you've
3 completed or not, but of the 75 percent, how many of them have
4 completed their simulations?

5 MR. CORTEZ: All departments that have reported
6 to us so far have completed that process. We do expect a few
7 departments that might not have that process completed.

8 We have established what we call an Event
9 Management Center, in which we have created an environment for
10 any departments who have not done that. We can run it through
11 that system.

12 So, We we've got our backup plan for any
13 departments that we find that don't have that methodology in
14 place today.

15 SENATOR KNIGHT: Are there any significant
16 departments, organizations, et cetera, that are in that 25
17 percent that are noncompliant right now?

18 MR. CORTEZ: No. Again, one of the findings in
19 the preliminary findings for the detailed department
20 assessments, we went first to look at the top 30 complex,
21 largest departments that have the largest impact to the state
22 services that we deliver. In that group, we don't expect to
23 find that.

24 Again, the current findings reflect that all the
25 systems, those mission critical main frame systems, are very
26 well under way, have been tested.

27 The errors that we do see room for improvement is
28 in the area of the imbedded chip in the areas of business

1 continuity planning. And in some cases, there are specific
2 needs for specialty either hardware or software that needs to be
3 updated. We're aggressively pursuing streamlining processes
4 within the Department of Information Technology, the Department
5 of Finance, and the LAO to get resources allocated to those
6 departments.

7 CHAIRMAN BURTON: Senator Baca.

8 SENATOR BACA: Thank you, Mr. Chair.

9 Mr. Cortez, in your local area, you've earned an
10 A for getting the information system ready for the Year 2000.
11 Can you do the same for the state?

12 MR. CORTEZ: Again, as I mentioned earlier, "No
13 man is an island upon himself." So, it's going to take a team
14 of us to get that A, and that's how we got the A in the county.
15 I had top executive support. We had executive commitment from
16 all the middle management teams, and then we had a very, very
17 specialized, organized team within our Y2K technology group.

18 We also had supplemented that group with external
19 support from specialty vendors, and I think we've established
20 the same methodology here. One of the challenges that we have
21 here, again, is, we've got 121 departments to get focused in the
22 right direction.

23 The solution is in place. We've met with the
24 CIOs. We've oriented them to our methodology. We've trained
25 them. They're aggressively looking in those areas. Again, I
26 hope not only so we get support from these middle management
27 types of staff, but definitely we're going to look to the
28 legislative branch for leadership in the areas of supporting

1 bills that will allow us to provide communications to the
2 public, that will allow us to establish a movement of resources
3 within the state, and other such legislative support that we're
4 going to need.

5 SENATOR BACA: You may have answered the
6 following question, but in recent years, there have been major
7 problems with information systems, especially as it pertained to
8 the DMV, as only one example.

9 What is your vision for improving the
10 informational system for state government?

11 MR. CORTEZ: One of the immediate concerns that I
12 had walking in is to establish what we have called a Statewide
13 Project Management Office. The objective of that is to
14 establish formalized project management which helps us hold our
15 deliverables accountable, to be within budget, within scope, and
16 on time.

17 We've expanded that program. We're using
18 expertise from the world's leader in this area, Deloitte &
19 Touche, and they've really established not only a program to
20 help us refocus our Y2K, but to help us provide skills transfer
21 and training to our staff so that we not only get ready for the
22 Y2K challenge, but we also get ready beyond Y2K and deal with
23 major technology initiatives in the future.

24 SENATOR BACA: I move the confirmation,
25 Mr. Chairman.

26 CHAIRMAN BURTON: I just have one clarifying
27 question.

28 The 75 percent, is the total deal 75 percent

1 completed, or are 75 percent of the departments 100 percent
2 completed?

3 What I thought I heard, different than Senator
4 Knight, is that basically the total package is about 75 percent
5 on the way there, as opposed to just 75 percent of the
6 departments.

7 MR. CORTEZ: Yeah, I think the total workload for
8 the state, we're at about 75 percent, but we are finding some
9 departments that are less than that.

10 CHAIRMAN BURTON: One other thing.

11 Have you taken a look at our Legislative Counsel
12 to see that, when it's all over, we live and die by them as
13 opposed to all these other agencies. Have you got somebody
14 watching that one?

15 MR. CORTEZ: Yes, we're doing that. We have a
16 legislative team in place, yes, sir.

17 CHAIRMAN BURTON: Moved by Senator Baca.

18 Witnesses in support. Come forward, please.

19 Just give, I think, briefly your names. The babies are getting
20 anxious out there, so we don't want to take up too much of the
21 mother's time.

22 MR. DIAZ: Honorable John Burton and honorable
23 Members of the Senate and the Committee, my name is Benny Diaz.
24 I represent the League of United Latin American Citizens, well
25 known as LULAC. We are the largest Latino organization in the
26 United States and in California.

27 It is our most sincere pleasure to endorse
28 Mr. Elias Cortez to the position of Director of the Department

1 of Information Technology. LULAC believes that Mr. Cortez'
2 professional experience and community involvement are assets to
3 the State of California.

4 I must also make a special remark that his
5 community involvement is an example, and by saying that I mean
6 that he's making a lot of difference in the Latino community by
7 helping the Latino students to realize how important it is to
8 have communications, computers. I think that the support that
9 Mr. Cortez has provided to the community is something that we
10 LULACers believe is important.

11 And we, again, just wanted to be brief, and
12 please accept the endorsement of Mr. Cortez as the Director of
13 Communications.

14 MS. GUTIERREZ: My name Maria Gutierrez, and also
15 I'm here with LULAC. I'm am the local Youth Director for
16 LULAC. I represent LULAC as the State Capitol liaison and also
17 as Deputy State Director for Women.

18 I'm here also to support this nomination. Thank
19 you.

20 SENATOR BACA: Thank you very much. If each of
21 the witnesses can just be very short and brief, introduce
22 yourself, and just be brief in your comments.

23 Thank you.

24 MS. BRADVICA: Good morning, honorable Senators.
25 My name is Karime Sanchez Bradvica, and I'm here to express my
26 support for Mr. Elias Cortez' confirmation.

27 I am currently the Chairwoman of the Board of the
28 USC Mexican-American Alumni Association.

1 And I can tell you that we are all very proud to
2 claim Elias Cortez as a fellow Trojan. He has exhibited what
3 the organization stands for, and that is education, commitment,
4 integrity, hard work, ethical behavior, and success. I believe
5 that he will be an asset to the Governor's staff, and a strong
6 and dedicated public servant.

7 I therefore urge all of you to vote yes and
8 confirm Mr. Cortez.

9 Thank you.

10 SENATOR BACA: Thank you.

11 MR. LOPEZ: Good morning, Committee Members. My
12 name is Elmundo Lopez. I'm here as a small business owner and
13 as the President of the Hispanic Contractors Association.

14 I'm here in support of Mr. Cortez for the
15 position of Director of the Office of Information Technology.

16 Mr. Cortez has the experience, the skills, the
17 knowledge, and background to guide California through the Y2K
18 challenge. We in business are very, very concerned about that,
19 especially if it comes to making payments on time and things.

20 California will be in good hands with Mr. Cortez,
21 and we urge you to please endorse his confirmation.

22 Thank you very much.

23 SENATOR BACA: Thanks.

24 MR. RAMIREZ: Good morning, Senators. My name is
25 Frank Ramirez. I come in support of the confirmation of
26 Mr. Elias Cortez. I'm a representative of the National
27 Commander of the American G.I. Forum, Mr. Francisco Ybarra.
28 Mr. Ybarra is a highly decorated combat vet. Understands the

1 importance of team work and discipline.

2 And with that as the background, he sends his
3 endorsement of Mr. Elias Cortez.

4 Number two, I'm the Director of the Office of
5 Community Relations for the California State University system,
6 and I'd like to just very quickly comment on Mr. Cortez' vision,
7 leadership, knowledge and skills.

8 Early on, he came to the California State
9 University system, enlisted us in helping with the Y2K effort in
10 communicating with the communities, local, state, federal,
11 special districts, police departments, fire departments, public
12 works. Did a great job at Sac. State with about a thousand
13 participants, and is putting together at four additional
14 university campuses a similar type of program.

15 Again, we strongly endorse the confirmation of
16 Mr. Elias Cortez. Gracias.

17 MS. BARAJAS: Good morning. My name is Griselda
18 Barajas, and I'm here on behalf the U.S. Hispanic Chamber of
19 Commerce also as a small business owner.

20 We are here to show support on behalf of Mr.
21 Cortez.

22 Thank you.

23 MR. PEREZ: I'm Jose Perez, and I'm here
24 representing the California Hispanic Chambers of Commerce. We
25 have 53 chambers throughout the State of California with about
26 15,000 members.

27 I'm also here representing the Sacramento
28 Hispanic Chamber of Commerce, since I'm the President-elect of

1 that organization.

2 We believe that the stewardship of the public
3 resources dedicated to information technology and information
4 management is very important. Mr. Cortez, we believe, brings
5 forth the caliber, the breadth and depth of experience that we
6 think will make an exceptional steward of public resources and
7 management of that information technology.

8 So, we strongly support his nomination and urge
9 an aye vote.

10 Thank you.

11 MR. COX: Good morning. My name is Alan Cox. I'm
12 the National Director of Government Services for Government
13 Technology, the publisher of Government Technology magazine and
14 the producer of the Government Technology Conferences.

15 I'm honored to be associated with Elias Cortez,
16 and I'm very happy to speak on his behalf.

17 For some time my organization has written on the
18 subject of information technology as it applies in government.
19 And we've come to find that two of the most important things
20 that can be done by an executive in this area for government are
21 communication and collaboration.

22 And in that manner, Mr. Cortez came to my
23 organization and asked for our assistance. We produce a
24 conference here which thousands of State of California
25 employees, thousands of county workers, thousands of local
26 government employees, come to learn about technology and its use
27 in government.

28 He sought our assistance in the Year 2000

1 preparedness efforts, and he has helped us remodel our
2 conference to ensure that the State of California and the local
3 governments in California are getting the education that they
4 need to complete their preparedness efforts.

5 He's also reached out to the counties directly by
6 attending the recent County CIO Conference in Southern
7 California, where he addressed directly 42 of the 48 counties.
8 He's met with the Board of Directors of the California State
9 Association of Counties. It's these type of efforts of outreach
10 and collaboration that will really be the keys to success, and
11 have been shown to be the keys to success in any technology
12 project in government.

13 So, I do encourage you to give him your support.

14 Thank you very much.

15 MR. KONANTZ: Good morning. My name is Jim
16 Konantz. I'm the Director of Instructional Technology for Los
17 Angeles Unified School District.

18 I'm here to support Mr. Cortez' appointment to
19 the Chief Administrative Officer for Technology in the State of
20 California. I'm here in support of Mr. Cortez because of his
21 outstanding outreach and concern about technology education for
22 all the students in the State of California.

23 Thank you.

24 MR. BRAINARD: Good morning. I'm Jim Brainard,
25 Chief Information Officer for the City of Los Angeles,
26 Department of Water and Power.

27 I don't think that there's much more that I can
28 say, only that we very strongly support the nomination of Mr.

1 Cortez.

2 Thank you.

3 MR. TALAMONTEZ: Good morning. I'm Roger
4 Talamontez, President and CEO of the San Diego Data Processing
5 Corporation. We represent the City of San Diego.

6 We have direct experience with Mr. Cortez in
7 government-to-government interface relationships. We heartily
8 endorse and implore you to appoint this man as the Chief
9 Information Officer of the State of California.

10 MR. FREEDMAN: Thank you so much for allowing us
11 to appear. My name is John Freedman, Council Member from the
12 City of Redlands.

13 I just want to report to you that Elias Cortez
14 was the leader of outreach from the county to the 24 cities of
15 San Bernardino County. We really appreciated that.

16 He's brought lower cost and better service to
17 some of the cities that have worked closely with him, and we
18 strongly support his endorsement.

19 Thank you.

20 CHAIRMAN BURTON: Any witnesses in opposition?
21 Hearing none, call the roll.

22 SECRETARY WEBB: Senator Baca.

23 SENATOR BACA: Aye.

24 SECRETARY WEBB: Baca Aye. Senator Hughes.
25 Senator Knight.

26 SENATOR KNIGHT: Aye.

27 SECRETARY WEBB: Knight Aye. Senator Burton.

28 CHAIRMAN BURTON: Aye.

1 SECRETARY WEBB: Burton Aye. Four to zero.

2 CHAIRMAN BURTON: Leave the roll open for
3 Senator Hughes.

4 Congratulations.

5 [Thereafter, SENATOR HUGHES
6 added her Aye vote for the
7 confirmation, making the final
8 vote 5-0 for confirmation.]

9 [Thereupon this portion of the
10 Senate Rules Committee hearing was
11 terminated at approximately 10:12 A.M.]

12 --ooOoo--
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CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this

22nd day of April, 1999.


EVELYN J. MIZAK
Shorthand Reporter

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APPEARANCESMEMBERS PRESENT

SENATOR JOHN BURTON, Chair

SENATOR JOHN LEWIS, Vice Chair

SENATOR JOE BACA

SENATOR TERESA HUGHES

SENATOR WILLIAM KNIGHT

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

WADE TEASDALE, Consultant to SENATOR LEWIS

FELICE TANENBAUM, Consultant to SENATOR HUGHES

DAVID OROSCO, Consultant to SENATOR KNIGHT

MANNY HERNANDEZ, Consultant to SENATOR BACA

ALSO PRESENT

JAMES W. KELLOGG, Member
California Transportation Commission

ART CARTER
California Pipe Trades Council
State Association of Electrical Workers
Western States Council of Sheet Metal Workers

BILL CAMP
California Labor Federation

CHUCK CENTER
California State Council of Laborers

RON BARROW
Electrical Contractors
Plumbing Contractors
Sheet Metal Contractors

1 BRITTON McFETRIDGE
2 State Building and Construction Trades Council

3 DAVE ACKERMAN
4 Associated General Contractors

5 DAN CURTIN
6 California State Council of Carpenters
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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: First, the Governor's appointee for the Member of the California Transportation Commission, Jim Kellogg.

Welcome, sir.

MR. KELLOGG: Thank you, Senator.

CHAIRMAN BURTON: Just tell us how great you are.

[Laughter.]

SENATOR BACA: Mr. Chair, some of us already know that.

MR. KELLOGG: It took three days for me to tell Senator Baca when we were together how great I was. Somebody when I came said no long, flowery speeches.

My name is Jim Kellogg. My background is that I was born and raised in California. I was born in Richmond, California and have lived in the Bay Area all my life.

I came up through the ranks of organized labor in the United Association, which is the plumbing and pipe fitting industry. I've got 35 years in that industry as of now.

I started out following in my father and my two uncles' footsteps in serving an apprenticeship, and worked my way up through the ranks, and been in full-time paid office in that industry since 1976.

I've got a lot of experience working with local politicians, and city councils, and Boards of Supervisors, and labor councils, and industry people. And I feel like I'm more than qualified to fill one of the seats on the Transportation

1 Commission because of those experiences. We interface with the
2 heavy and highway construction people in our industry as well.

3 My experience in bringing industry and
4 contractors and laborers to the table and working together is --
5 I've got a long history.

6 I've been involved in local community activities
7 as far as being -- participating with Council and Supervisors,
8 and their committees, and law enforcement committees, and labor
9 council committees as well.

10 And I believe that growing up in this state, I've
11 been able to watch transportation grow as well. When I was
12 young in the Bay Area, the main highway from Oakland to
13 Sacramento was San Pablo Avenue. The main road from west county
14 to east county was Franklin County Road. And I've watched
15 Highway 80 come into place, Highway 680 come into place, bridges
16 and tunnels, and the likes, and have experienced traveling them
17 myself, and feel that I have something to add.

18 I've spent my entire adult life representing
19 working people and trying to help people. I believe that this
20 is an opportunity for me to have some impact on helping all the
21 citizens in the State of California.

22 CHAIRMAN BURTON: Senator Lewis.

23 SENATOR LEWIS: Start with someone else. I'll
24 defer for a second.

25 CHAIRMAN BURTON: There was a report recently
26 released that showed that, I think, roughly we're about 26
27 billion dollars short to get even where we should be today, and
28 over the next ten years, I think, it's 116 billion. A lot of

1 money.

2 There have been proposals. I've got a general
3 obligation bond proposal that's quite large. There's proposals
4 to take moneys basically out of the General Fund from the sales
5 tax on gasoline. There's some thought of taking some of that
6 money putting it into a revenue bond source.

7 If you had a chance to discuss with any of your
8 fellow Commissioners, like we need a lot more new money, what is
9 really the best way to get it? Knowing that you're the ones
10 that are really going to vote on it. But the funding thing, I
11 know you're newly appointed.

12 MR. KELLOGG: Senator, first of all, I was remiss
13 in not thanking the Rules Committee for giving me this
14 opportunity. I would like to request before it's over with that
15 I have your support.

16 But I have had discussions with the rest of the
17 Commission and Commission staff about the report, and through
18 the process of the report. And it was a report that was
19 requested and done in short order. And I think they did a
20 fantastic job on this report.

21 We've talked about 23 billion of that is in
22 rehab, and fixing what's already out there. That's a big
23 portion. But we realize that 116 billion dollars over the next
24 ten years is not going to be an easy task. I believe it's going
25 to be so difficult that it's going to take the Legislature and
26 the Governor, working together, to accomplish this. It's going
27 to take a combination of bonds issues, and probably gasoline
28 taxes, and user fees, and all of that together in order is to

1 come up with what's going to be needed to accomplish that
2 mission.

3 CHAIRMAN BURTON: Senator Lewis.

4 SENATOR LEWIS: Mr. Kellogg, I'm sorry I missed
5 part of your presentation. Maybe you answered this already.

6 Looking over your resume, you've got a long
7 history, involvement in plumbing and the pipe fitting industry.
8 But at least on the resume that I've seen, nothing really
9 related to transportation.

10 What kind of transportation background do you
11 have that makes you qualified for this appointment?

12 MR. KELLOGG: Well, in our industry, we work
13 hand-in-hand with the same labor unions and contractors that
14 work in the heavy and highway industry. And I've played a major
15 role in the local area where I'm from at the building trades
16 level, the City Council and County Supervisors level in keeping
17 harmony and creating a positive atmosphere within that type of
18 work.

19 We interface with them in the sense that any time
20 that there's a highway or a road change, there's usually
21 underground pipe lines involved. We are the people that work
22 hand-in-hand and shoulder-to-shoulder with them in replacing the
23 piping systems that have to be -- or removing them, or whatever
24 is necessary. So, we interface in that industry quite a bit.

25 SENATOR LEWIS: I wanted to ask you a little bit
26 about your feelings regarding HOV lanes. In the CTC report,
27 they identified new car pool lanes, including 30 miles of I-5
28 north of downtown L.A.

1 Do you think it's wise to continue to construct
2 additional HOV lanes until we've studied the effectiveness of
3 the existing ones we have?

4 MR. KELLOGG: Well, I have kind of a personal
5 feeling about HOV lanes. I've always felt that I didn't care
6 too much for HOV lanes.

7 SENATOR LEWIS: Move the nomination.

8 [Laughter.]

9 MR. KELLOGG: I'm serious.

10 CHAIRMAN BURTON: So am I. If I've got three
11 people they're great. If I'm by myself, they suck.

12 MR. KELLOGG: I think that just driving on our
13 highways today, you can see that there's more people by
14 themselves than there are that utilize those lanes. I think if
15 we can move them over into those lanes, it would help all of us.

16 That's my own opinion.

17 SENATOR BACA: Basically, we are all taxpayers
18 and not allowed to use that lane.

19 MR. KELLOGG: There's several things I think can
20 be done to streamline the legislative process and the process
21 for making things happen quicker. I think that's one of the
22 biggest things that we all have to, the Commission and the
23 Legislature and the administration, have to address that has
24 caused the problems that we have today.

25 We need to streamline the bureaucracy and the
26 process, and there's ways of doing that. I think that when we
27 have an environmental EIR process like we have in the State of
28 California, that's far above in the highway industry which you

1 have in the federal EIR, yet when you have federal money on a
2 state highway, you have to go through both those processes, that
3 we ought to be able to work out some kind of an agreement with
4 the federal government to eliminate that second deal and speed
5 up the process in those ways.

6 I think there's ways that we can use our friends
7 who are environmentalists to speed up the existing environmental
8 process, the EIR process. I believe that that can be done with
9 everybody working together.

10 All those things going hand-in-hand are going to
11 help to speed up the process.

12 And I think that if we don't do that, then shame
13 on us, because when we're all done and walk away from the job we
14 have today, I would hope that supporting the Governor and the
15 Legislature that we'll be able to look at citizens of the State
16 of California and see that their traveling is easier and better
17 for them.

18 SENATOR LEWIS: I move the nomination.

19 SENATOR BACA: Second.

20 CHAIRMAN BURTON: Senator Hughes.

21 SENATOR HUGHES: Since you've only been there a
22 couple of months, and you share the same feelings as a lot of
23 people on the Committee, what would you propose, or do you
24 propose to do in the meantime to help relieve the mess,
25 congestion, and confusion of the Diamond Lanes? In some
26 instances, they're only the operative certain hours, and the
27 signs are small, and people have problems seeing them. Some
28 lanes it's two; some lanes it's three.

1 What do you see as a band-aid approach until the
2 Commission can really get their act together and do something
3 very definitive about changing this whole process? Do you have
4 a plan? Or, since you've been there, have you heard any plans
5 that we might look forward to?

6 MR. KELLOGG: I have to be honest, we haven't
7 really addressed that issue.

8 SENATOR HUGHES: When are you going to bring it
9 up?

10 MR. KELLOGG: Immediately.

11 SENATOR HUGHES: I like that.

12 MR. KELLOGG: I'm going to contact staff on my
13 way out the door and request a special meeting.

14 SENATOR HUGHES: Second the nomination.

15 CHAIRMAN BURTON: Do you want to introduce your
16 family and friends?

17 MR. KELLOGG: I'd be glad. I'd like to introduce
18 my wife, Lynn. That's my entire family today. The rest of my
19 family's outside of California, but she's the backbone of the
20 family that sits on the Transportation Commission.

21 CHAIRMAN BURTON: What I'd like to have, so they
22 don't screw things up, is have the witnesses just announce their
23 name and the fact that they're in support. We don't want them
24 raising issues that may cause trouble.

25 I'm looking at Art Carter right now.

26 Senator Baca had a question or comment.

27 SENATOR BACA: Thank you, Mr. Chair.

28 Suburban sprawl contributes to air pollution and

1 the loss of tax revenues to urban cities. Suburban sprawl
2 reduces the amount of farm land and open space in California.

3 Can you seriously consider providing or taking
4 steps to help in this area, especially as it pertains to cities
5 such as San Bernardino and other areas?

6 MR. KELLOGG: Senator, I missed the very first
7 part.

8 SENATOR BACA: Suburban sprawl contributes to air
9 pollution and loss of tax revenue to urban cities, medium cities
10 such as San Bernardino.

11 Can you have serious consideration as the
12 California Transportation Commission to take steps to prevent
13 urban sprawl?

14 MR. KELLOGG: I believe so, yes. I think that
15 the way SB 45 is structured, that how this money is distributed
16 is set up through population and highway miles. And it kind of
17 evens out the urban counties' ability.

18 But I agree with you 100 percent. I think that
19 you and I, on our trip to Mexico, experienced what can happen if
20 we don't take care of transportation. I have never seen such a
21 disaster in my life as the transportation in Mexico City.

22 SENATOR BACA: Thank you. That's why I'm
23 concerned with a lot of the urban cities that are being
24 affected. Not some of the larger cities, but the urban
25 communities. I'm glad you're willing to take steps in that
26 direction.

27 CHAIRMAN BURTON: Witnesses in support. Name,
28 organization, and support.

1 MR. CARTER: Mr. Chairman, did you say that
2 witnesses are limited to fifteen minutes.

3 [Laughter.]

4 CHAIRMAN BURTON: I think you're disqualified.
5 You were on the man's payroll.

6 [Laughter.]

7 MR. CARTER: Art Carter, representing the
8 California Pipe Trades Council, the State Association of
9 Electrical Workers, and the Western States Council of Sheet
10 Metal Workers, in strong support of Mr. Kellogg.

11 MR. CAMP: Mr. Chairman, Bill Camp, representing
12 the California Labor Federation. Tom Rankin would have been
13 here; he's obligated otherwise, and send his regrets.

14 We support this man 100 percent.

15 MR. CENTER: Chuck Center with the California
16 State Council of Laborers in strong support of Mr. Kellogg.

17 MR. BARROW: Mr. Chairman, Members of the
18 Committee, my name is Ron Barrow. I'm representing Electrical
19 Contractors, Plumbing Contractors, Sheet Metal Contractors.

20 We are proud to support Mr. Kellogg in his
21 nomination. Thank you.

22 MR. McFETRIDGE: Jerry McFetridge, State Building
23 and Construction Trades Council of California. We represent
24 over 100,000 construction workers in the state, and we are
25 strongly in support of Mr. Kellogg.

26 MR. ACKERMAN: Mr. Chairman and Members, Dave
27 Ackerman, representing the Associated General Contractors.

28 We're in strong support of Mr. Kellogg's

1 nomination and urge your confirmation. Thank you.

2 MR. CURTIN: Mr. Chairman And Members, Danny
3 Curtin, California State Council of Carpenters.

4 I'd just like to say that Mr. Kellogg has a
5 tremendous capability and history of resolving some very, very
6 difficult problems within the trades, and I should know because
7 I've a part of those problems in some cases, and I encourage
8 your support for him.

9 Thank you.

10 CHAIRMAN BURTON: Any opposition?

11 It was moved by Senator Lewis. Call the roll.

12 SECRETARY WEBB: Senator Baca.

13 SENATOR BACA: Aye.

14 SECRETARY WEBB: Baca Aye. Senator Hughes.

15 SENATOR HUGHES: Aye.

16 SECRETARY WEBB: Hughes Aye. Senator Knight.

17 SENATOR KNIGHT: Aye.

18 SECRETARY WEBB: Knight Aye. Senator Lewis.

19 SENATOR LEWIS: Aye.

20 SECRETARY WEBB: Lewis Aye. Senator Burton.

21 CHAIRMAN BURTON: Aye.

22 SECRETARY WEBB: Burton Aye. Five to zero.

23 CHAIRMAN BURTON: Congratulation, Jim.

24 [Thereupon this portion of the
25 Senate Rules Committee hearing was
26 terminated at approximately 9:53 A.M.]

27 --ooOoo--
28

CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

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I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 12th day of May, 1999.


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